

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE**

ACT, INC.,	:	
	:	Case No. 3:18-cv-00186-TRM-HBG
Plaintiff and Counter-Defendant,	:	
	:	
v.	:	
	:	
WORLDWIDE INTERACTIVE NETWORK, INC. and TERESA CHASTEEN,	:	JURY TRIAL DEMANDED
	:	
Defendants and Counter-Claimants.	:	
	:	
	:	
	:	
	:	
	:	
	:	
	:	
	:	

DECLARATION OF ROSE BABINGTON

I, Rose Babington, declare as follows:

1. I am employed by ACT, Inc. as Director of State Partnerships. My job duties and responsibilities include working with states in which ACT has contracts to provide its WorkKeys assessments and related services. One of those states is Michigan.

2. ACT has had a contract with the State of Michigan since 2008 for ACT to provide its WorkKeys assessments and related services. Since 2008, the State of Michigan has issued Request for Proposals (“RFPs”) for Work Skills Readiness Assessments. The period of these contracts is three years, with a two year renewal. Each year, the State of Michigan has awarded these contracts to ACT.

3. The State of Michigan, Department of Technology, Management and Budget—Procurement, issued Request for Proposal (RFP) Request No. 200000001688 for a “Work Skills Readiness Assessment” for the Michigan Department of Education (MDE) and the Michigan

Department of Corrections (MDOC) on May 7, 2020 (“RFP”). The RFP can be found at www.michigan.gov/SIGMAVSS. A copy of the RFP is attached as Exhibit B1. The RFP seeks proposals to provide the type of assessment ACT has provided to the State of Michigan since 2008. Responses to the RFP are due Thursday, May 28, 2020. Ex. B1 at 1.

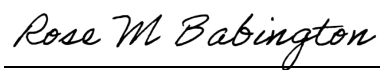
4. ACT intends to respond to the RFP. ACT believes Defendant Worldwide Interactive Network, Inc. (“WIN”) will respond to the RFP. This belief is based on the fact that WIN responded to similar requests for proposals issued by the States of South Carolina and North Carolina.

5. As of this year, the annual value to ACT of its contract with the State of Michigan is approximately \$4.1 million. Of this amount, \$3.2 million is expended on the WorkKeys assessment itself and delivery of the assessment to approximately 110,000 students in Michigan. The remaining \$900,000 is divided between research and reporting data. The State of Michigan has specific requirements for research and reporting data that ACT employees work to provide.

6. If ACT were to lose the contract with the State of Michigan, ACT would suffer irreparable harm because ACT will very likely not be able to continue to employ all 48 people who currently support the Michigan contract, and would need to make personnel adjustments promptly after a final decision on the contract award is made by the State.

I declare under penalty of perjury of the laws of the United States that the foregoing is true and correct.

Executed on this 19th day of May, 2020, at Iowa City, Iowa.



Rose Babington

ACT, Inc. v. Worldwide Interactive Network, Inc.
U.S. District Court for the Eastern District of Tennessee
Case No. 3:18-cv-00186-TRM-HBG

EXHIBIT B1

to

DECLARATION OF ROSE BABINGTON



STATE OF MICHIGAN
Department of Technology, Management and Budget—Procurement

Works Skills Readiness Assessment for MDE and MDOC
Request for Proposal No. 200000001688

Solicitation Manager Name: Jillian Yeates
Direct Phone: 517-275-1131
Email: yeatesj@michigan.gov
Main Phone: 1-855-MI-PURCH 1-855-647-8724

This is a Request for Proposal (RFP) for:
Work Skills Readiness Assessment for the Michigan Department of Education (MDE) and
the Michigan Department of Corrections (MDOC)

RFP Timeline

Event	Time	Date
RFP issue date	N/A	May 7, 2020
Deadline for bidders to submit questions about this RFP	3:00 P.M. Eastern	May 14, 2020
Anticipated date State will post answers to bidder questions on www.michigan.gov/SIGMAVSS	N/A	May 21, 2020
Proposal deadline*	3:00 p.m. Eastern	May 28, 2020
Anticipated contract begin date	N/A	August 15, 2020

***A bidder's proposal received at 3:00:01 p.m. Eastern is late and subject to disqualification.**

This RFP is subject to change. Check www.michigan.gov/SIGMAVSS for current information.

STATE OF MICHIGAN

PROPOSAL INSTRUCTIONS

1. **PROPOSAL PREPARATION.** The State recommends reading all RFP materials prior to preparing a proposal, particularly these Proposal Instructions and the Vendor Questions Worksheet. Bidders must follow these Proposal Instructions and provide a complete response to the items indicated in the table below. References and links to websites or external sources may not be used in lieu of providing the information requested in the RFP within the proposal. Include the bidder's company name in the header of all documents submitted with your proposal.

RFP Structure and Documentation

Document	Description	Bidder Response Instructions
Cover Page	Provides RFP title and number, important dates, and contact information for Solicitation Manager	Informational
Proposal Instructions	Provides RFP instructions to bidders	Informational
Confidential Treatment Form	Required verification on whether bidder's proposal contains confidential information	Bidder to complete and submit by proposal deadline
Vendor Questions Worksheet	Questions to bidders on background and experience	Bidder to complete and submit by proposal deadline
Schedule A – Statement of Work	Statement of work	Bidder to complete and submit by proposal deadline
Schedule B – Pricing	Pricing for goods and services sought by the State through this RFP	Bidder to complete and submit by proposal deadline
Schedule C – MDOC Service Level Agreements	Service Level Agreements for MDOC	Deemed accepted by Bidder unless information required in Section 6, Evaluation Process is submitted by proposal deadline
Schedule E -	Contractor Hosted Software and Services	Deemed accepted by Bidder unless information required in Section 6, Evaluation Process is submitted by proposal deadline.
Schedule F	Data Security Requirements	Deemed accepted by Bidder unless information required in Section 6, Evaluation Process is

		submitted by proposal deadline.
Exhibit 1 to Schedule F	Contractor's Disaster Recovery Plan	Bidder to submit by proposal deadline
Schedule I	Federal Provisions Addendum	Informational
Schedules D, G and H have been Reserved as they are not applicable.		
Bidder Q and A Template	Provides a Template for Bidder to ask questions about the RFP	Bidder to complete and submit by Q and A deadline
Contract Terms	Provides legal terms for a contract awarded through this RFP	Deemed accepted by bidder unless information required in Section 6, Evaluation Process is submitted by proposal deadline

2. **CONTACT INFORMATION FOR THE STATE.** The sole point of contact for the State concerning this RFP is listed on the Cover Page. Contacting any other State personnel, agent, consultant, or representative about this RFP may result in bidder disqualification.
3. **MODIFICATIONS.** The State may modify this RFP at any time. Modifications will be posted on www.michigan.gov/SIGMAVSS . This is the only method by which the RFP may be modified.
4. **QUESTIONS.** Bidder questions about this RFP must be emailed to the Solicitation Manager no later than the time and date specified on the Cover Page. In the interest of transparency, only written questions are accepted. Answers to questions will be posted on www.michigan.gov/SIGMAVSS. Submit questions using the Bidder Questions and Answers Template attached.
5. **DELIVERY OF PROPOSAL.**

Electronic – The bidder must submit its proposal, all attachments, and any modifications or withdrawals electronically through www.michigan.gov/SIGMAVSS. The price proposal should be saved separately from all other proposal documents. The bidder should submit all documents in a modifiable (native) format (examples include but are not limited to Microsoft Word or Excel and Google Docs or Sheets). In addition to submitting documents in a modifiable format, the bidder may also submit copies of documents in PDF. Attachment file size is limited to 6 MB per document. Bidder's failure to submit a proposal as required may result in disqualification. The proposal and attachments must be fully uploaded and submitted prior to the proposal deadline. **Do not wait until the last minute to submit a proposal**, as the SIGMA VSS system requires the creation of an account and entry of certain information, in addition to uploading and submitting the materials. The SIGMA VSS system **will not** allow a proposal to be submitted after the proposal deadline identified in the solicitation Closing On/Closing Date fields (Summary view/Detail view), even if a portion of the proposal has been uploaded.

Questions on how to submit information or how to navigate in the SIGMA VSS system can be answered by calling **(517) 284-0540 or (888) 734-9749**. The Solicitation Manager may not provide assistance related to the submittal of the proposal and all attachments on the day of the proposal deadline. Responsibility for a complete submission lies with the bidder.

6. **EVALUATION PROCESS.** If all mandatory minimum requirements are met the State will evaluate each proposal based on the following factors:

	Technical Evaluation Criteria	Weight
1.	Requirements, Schedule A, Statement of Work, Section III. 1 – General Requirements, 1.2 – MDOC Requirements, and 1.3 – MDE Requirements.	50
	MDOC Requirements, Section 1.2 – 10 Points	
	MDE Requirements, Section 1.3 – 20 Points	
	General Requirements, Section 1. – 20 Points	
2.	Project Planning and Management, Schedule A, Statement of Work, Section III. Sections 5.1, 5.2, and 1.5.	30
	Meetings, Section 5.1 – 10 Points	
	Training Section 1.5 – 10 Points	
	Project Plan Management Section 5.2 – 10 Points	
3.	Schedule A, Statement of Work, except Sections III 1, 1.2, 1.3, 1.5, 5.1, and 5.2	10
4.	Vendor Questions Worksheet	10
	Total	100

Proposals receiving 80 or more technical evaluation points will have pricing evaluated and considered for award.

The State may utilize all bidder information, without regard to a proposal's technical score, to determine fair market value for goods or services sought. The State is not obligated to accept the lowest price proposal. If applicable, the State's evaluation will include consideration of a bidder's qualified disabled veterans/service-disabled veteran owned business(QDV/SDVOB) status under [MCL 18.1261\(8\)](#). Additional information on the SDVOB preference is available at: https://www.michigan.gov/dtmb/0,5552,7-358-82550_85746_48677-412612--,00.html.

The State strongly encourages strict adherence to the Contract Terms. The State reserves the right to deem a bid non-responsive for failure to accept the Contract Terms. Nevertheless, the bidder may submit proposed changes to the Contract Terms in track changes (i.e., visible edits) with an explanation of the bidder's need for each proposed change. Failure to include track changes with an explanation of the bidder's need for the proposed change constitutes the bidder's acceptance of the Contract Terms. General statements, such as that the bidder reserves the right to negotiate the terms and conditions, may be considered non-responsive.

The State may but is not required to conduct an on-site visit to tour and inspect the bidder's facilities; require an oral presentation of the bidder's proposal; conduct interviews, research, reference checks, and background checks; and request additional price concessions at any point during the evaluation process.

7. **NOTICE OF DEFICIENCY.** The State reserves the right to issue a **Notice of Deficiency** to bidders if the State determines after the proposal deadline that a portion of the RFP was deficient, unclear, or ambiguous. Failure to respond to a **Notice of Deficiency** timely may be cause for disqualification.
8. **CLARIFICATION REQUEST.** The State reserves the right to issue a **Clarification Request** to a bidder to clarify its proposal if the State determines the proposal is not clear. Failure to respond to a **Clarification Request** timely may be cause for disqualification.

9. RESERVATIONS. The State reserves the right to:

- a. Disqualify a bidder for failure to follow these instructions.
- b. Discontinue the RFP process at any time for any or no reason. The issuance of an RFP, your preparation and submission of a proposal, and the State's subsequent receipt and evaluation of your proposal does not commit the State to award a contract to you or anyone, even if all the requirements in the RFP are met.
- c. Consider late proposals if: (i) no other proposals are received; (ii) no complete proposals are received; (iii) the State received complete proposals, but the proposals did not meet mandatory minimum requirements or technical criteria; or (iv) the award process fails to result in an award.
- d. Consider an otherwise disqualified proposal, if no other proposals are received.
- e. Disqualify a proposal based on: (i) information provided by the bidder in response to this RFP; (2) the bidder's failure to complete registration on www.michigan.gov/SIGMAVSS ; or (3) if it is determined that a bidder purposely or willfully submitted false or misleading information in response to the RFP.
- f. Consider prior performance with the State in making its award decision.
- g. Consider overall economic impact to the State when evaluating proposal pricing and in the final award recommendation. This includes but is not limited to: considering principal place of performance, number of Michigan citizens employed or potentially employed, dollars paid to Michigan residents, Michigan capital investments, job creation, tax revenue implications, and economically disadvantaged businesses.
- h. Consider total-cost-of-ownership factors (e.g., transition and training costs) when evaluating proposal pricing and in the final award recommendation.
- i. Refuse to award a contract to any bidder that has failed to pay State taxes or has outstanding debt with the State.
- j. Enter into negotiations with one or more bidders on price, terms, technical requirements, or other deliverables.
- k. Award multiple, optional-use contracts, or award by Contract Activity.
- l. Evaluate the proposal outside the scope identified in **Section 6, Evaluation Process**, if the State receives only one proposal.

10. AWARD RECOMMENDATION. The contract will be awarded to the responsive and responsible bidder who offers the best value to the State, as determined by the State. Best value will be determined by the bidder meeting the minimum point threshold and offering the best combination of the factors stated in **Section 6, Evaluation Process**, and price, as demonstrated by the proposal. The State will post an **Award Recommendation and Evaluation Synopsis** on www.michigan.gov/SIGMAVSS .

11. DEBRIEF MEETING AND BID PROTEST. The State will post an **Award Recommendation and Evaluation Synopsis**, which will provide instructions on how to request a debrief meeting

If you wish to initiate a protest of the award, you must submit your written protest electronically at BidProtest-DTMB@michigan.gov no later than 3:00 PM ET., 5 calendar days after posting the Award Recommendation and Evaluation Synopsis on SIGMA VSS, or by 3:00 PM ET the next business day if that date falls on a state holiday or weekend. The State reserves the right to adjust this timing and will publish any change on the SIGMA VSS.

Additional information about the protest process is available at www.michigan.gov/micontractconnect under the "Programs and Policies" link.

12. STATE ADMINISTRATIVE BOARD. Contracts equal to \$250,000 or greater than require approval by the State Administrative Board. The State Administrative Board's decision is final; however, its approval does not constitute a contract. The award process is not complete until the awarded contractor receives a contract fully executed by all parties.

13. GENERAL CONDITIONS. The State will not be liable for any costs, expenses, or damages incurred by a bidder participating in this solicitation. The bidder agrees that its proposal will be considered an offer to do business with the State in accordance with its proposal, including the Contract Terms, and that its proposal will be irrevocable and binding for a period of 180 calendar days from date of submission. If a contract is awarded to the bidder, the State may, at its option, incorporate any part of the bidder's proposal into a contract. This RFP is not an offer to enter into a contract. This RFP may not provide a complete statement of the State's environment or contain all matters upon which agreement must be reached. Other than verified trade secrets, proposals submitted via www.michigan.gov/SIGMAVSS are the State's property.

14. CONFIDENTIAL TREATMENT FORM AND THE FREEDOM OF INFORMATION ACT. All portions of the bidder's proposal and resulting contract are subject to disclosure as required under Michigan's Freedom of Information Act (FOIA), MCL 15.231, et seq. However, some information may be exempt from disclosure. Under MCL 18.1261(13)(b), records containing "a trade secret as defined under section 2 of the uniform trade secrets act, 1998 PA 448, MCL 445.1902," are exempt from disclosure under FOIA. In addition, "financial or proprietary information" submitted with a bidder's proposal is exempt from disclosure under FOIA. A bidder's failure to comply with this Section is grounds for rejecting a bidder's proposal as non-responsive. As a part of its proposal, each bidder must follow the procedure below.

- a. **SUBMIT A COMPLETED "CONFIDENTIAL TREATMENT FORM" (CT FORM) WITH YOUR BID.** Completion and submission of the CT Form is required regardless of whether the bidder seeks confidential treatment of information. Failure to submit a completed CT Form may be cause for disqualification from the solicitation process.
 - i. Complete and sign Section 1 of the CT Form if the bidder does NOT request confidential treatment of information contained in its proposal; or
 - ii. Complete and sign Section 2 of the CT Form if the bidder requests confidential treatment of certain information. Bidder must also submit a "Public Copy" of the proposal with the trade secret, financial, and proprietary information redacted and clearly labeled as the "Public Copy."
- b. **FOIA REQUESTS.** If a FOIA request is made for a bidder's proposal, the Public Copy may be distributed to the public along with the bidder's CT Form. The CT Form is a public document and serves as an explanation for the redactions to the Public Copy. Do not put any trade secret, financial, or proprietary information in the CT Form. Do not redact the CT Form itself.
- c. **NO ADVICE.** The State will not advise a bidder as to the nature or content of documents entitled to protection from disclosure under FOIA or other laws, as to the interpretation of such laws, or as to the definition of trade secret or financial or proprietary information. Nothing contained in this provision will modify or amend requirements and obligations imposed on the State by FOIA or other applicable law.
- d. **FAILURE TO REQUEST CONFIDENTIAL TREATMENT.** Failure to request material be treated as confidential as specified herein relieves the State, its agencies, and personnel from any responsibility for maintaining material in confidence.

- e. Bids containing a request to maintain an entire proposal as confidential may be rejected as non-responsive. Bidders may not request confidential treatment with respect to resumes, pricing, and marketing materials. The State reserves the right to determine whether material designated as exempt by a bidder falls under MCL 18.1261 or other applicable FOIA exemptions. If a FOIA request is made for materials that the bidder has identified as trade secret, financial, or proprietary information, the State has the final authority to determine whether the materials are exempt from disclosure under FOIA.
- f. Bidder forever releases the State, its departments, subdivisions, officers, and employees from all claims, rights, actions, demands, damages, liabilities, expenses and fees, which arise out of or relate to the disclosure of all or a portion of bidder's proposal submitted under this RFP. Bidder must defend, indemnify and hold the State, its departments, subdivisions, officers, and employees harmless, without limitation, from and against all actions, claims, losses, liabilities, damages, costs, attorney fees, and expenses (including those required to establish the right to indemnification), arising out of or relating to any FOIA request, including potential litigation and appeals, related to the portion of bidder's proposal submitted under this RFP that bidder has identified as a trade secret, or financial or proprietary information. The State will notify bidder in writing if indemnification is sought. The State is entitled to: (i) regular updates on proceeding status; (ii) participate in the defense of the proceeding; (iii) employ its own counsel; and to (iv) retain control of the defense, or any portion thereof, if the State deems necessary. Bidder will not, without the State's written consent (not to be unreasonably withheld), settle, compromise, or consent to the entry of any judgment in or otherwise seek to terminate any claim, action, or proceeding. If a State employee, official, or law is involved or challenged, the State may control the defense of that portion of the claim. Any litigation activity on behalf of the State, or any of its subdivisions under this Section, must be coordinated with the Department of Attorney General. An attorney designated to represent the State may not do so until approved by the Michigan Attorney General and appointed as a Special Assistant Attorney General.

STATE OF MICHIGAN

CONFIDENTIAL TREATMENT FORM (CT FORM)

Page 1 of 2

INSTRUCTIONS. Complete either Section 1 or Section 2 of this CT Form and sign where indicated. This CT Form must be signed by the individual who signed the bidder's proposal. A completed CT Form must be submitted with your proposal, regardless of whether your proposal contains confidential information. **Failure to submit a completed CT Form with your bid is grounds for rejecting the proposal as non-responsive.** See **Section 14** of the Proposal Instructions for additional information.

Section 1. Confidential Treatment Is Not Requested

This section must be completed, signed, and submitted with the proposal if bidder does **not** request confidential treatment of any material contained in the proposal.

By signing below, the bidder affirms that confidential treatment of material contained in the proposal is not requested.

RFP Number

RFP Title

Signature

Date

[Printed Name]

[Title]

[Company]

Section 2. Confidential Treatment Is Requested

The section must be completed, signed, and submitted with the proposal if bidder requests confidential treatment of any material contained in the proposal. Submission of a completed CT Form is required to request confidential treatment.

Provide the information in the table below. Bidder may add rows or additional pages using the same format shown in the table. Bidder must specifically identify the information to be protected as confidential and state the reasons why protection is necessary. The CT Form will not be considered fully complete unless, for each confidentiality request, the bidder: (1) identifies whether the material is a trade secret (TS), financial information (FI), or proprietary information (PI); (2) explains the specific legal grounds that support treatment of the material as TS, FI, or PI; and (3) provides the contact information for the person at bidder's organization authorized to respond to inquiries by the State concerning the material. Bidders must not simply cite to an applicable act or case name; rather, bidders must provide a complete justification as to how the material falls within the scope of an applicable act or relevant case law.

STATE OF MICHIGAN

CONFIDENTIAL TREATMENT FORM (CT FORM)

Page 2 of 2

RFP page #, paragraph #, and section #	State whether the material is a trade secret (TS), financial information (FI), or proprietary information (PI)	Explain the specific grounds in State or other applicable law which supports treatment of the material as TS, FI, or PI. Do not simply cite to the applicable act. Provide a complete justification as to how the material falls within the scope of the applicable act or relevant case law.	Provide the bidder contact information

By signing below, the bidder affirms that confidential treatment of material contained in its proposal is requested and has attached to this form a redacted “Public Copy” of the bidder’s proposal.

RFP Number

RFP Title

Signature

Date

[Printed Name]
[Title]
[Company]

STATE OF MICHIGAN

VENDOR QUESTIONS WORKSHEET

Provide a detailed response to each question. "You" and "company" refers to the bidder.

Information Sought	Bidder Response
1. Contact Information	
Bidder's sole contact person during the RFP process. Include name, title, address, email, and phone number.	
Person authorized to receive and sign a resulting contract. Include name, title, address, email, phone number and vendor customer code in SIGMA VSS.	
2. Company Background Information	
Legal business name and address. Include business entity designation, e.g., sole proprietor, Inc., LLC, or LLP.	
What state was the company formed in?	
Phone number	
Website address	
Number of years in business and number of employees	
Legal business name and address of parent company, if any	
Has there been a recent change in organizational structure (e.g., management team) or control (e.g., merger or acquisition) of your company? If the answer is yes: (a) explain why the change occurred and (b) how this change has affected your company.	
Discuss your company's history. Has growth been organic, through mergers and acquisitions, or both?	
Has bidder ever been debarred, suspended, or disqualified from bidding or contracting with any entity, including the State of Michigan? If yes, provide the date, the entity, and details about the situation.	
Has your company been a party to litigation against the State of Michigan? If the answer is yes, then state the date of initial filing, case name and court number, and jurisdiction.	
Within the last 5 years, has your company or any of its related business entities defaulted on a contract or had a contract terminated for cause? If yes, provide the date, contracting entity, type of contract, and details about the termination or default.	
State your gross annual sales for each of the last 5 years.	

If receiving a contract under this RFP will increase your gross revenue by more than 25% from last year's sales, explain how the company will scale-up to manage this increase.	
Describe partnerships and strategic relationships you think will bring significant value to the State.	
State the physical address of the place of business that would have primary responsibility for this account if bidder is awarded a contract under this RFP.	
3. Qualified Disabled Veteran/Service-Disabled Veteran-Owned Business Program	
Under MCL 18.1261 , a "qualified disabled veteran" means a business entity that is 51% or more owned by 1 or more veterans with a service-connected disability. A "service-connected disability" means a disability incurred or aggravated in the line of duty in the active military, naval, or air service as described in 38 USC 101(16). Are you a qualified disabled veteran?	Enter YES or NO.
To demonstrate qualification as a qualified disabled veteran, you must provide: (a) Proof of service and conditions of discharge (DD214 or equivalent); (b) Proof of service-connected disability (DD214 if the disability was documented at discharge or Veterans Administration Rating Decision Letter or equivalent if the disability was documented after discharge); and (c) Legal documents setting forth the ownership of the business entity. In lieu of the documentation identified above, you may provide proof of certification by the National Veterans Business Development Council.	Enter the names of documents submitted with your proposal to demonstrate status as a qualified disabled veteran.
4. Participation in RFP Development or Evaluation	
Did your company, an employee, agent, or representative of your company, or any affiliated entity participate in developing any component of this solicitation? For purposes of this question, business concerns, organizations, or individuals are affiliates of each other if, directly or indirectly: (1) either one controls or has power to control the other or (2) a third-party controls or has the power to control both. Indicia of control include, but are not limited to, interlocking management or	If you entered "YES", you are not eligible for contract award or to work as a subcontractor for the awarded vendor.

ownership, identity of interests among family members, shared facilities or equipment, and common use of employees.	
If you are awarded a contract under this solicitation, in order to provide the goods or services required under a resulting contract, do you intend to partner or subcontract with a person or entity that assisted in the development of this solicitation?	If you entered "YES," you are not eligible for contract award. An awarded vendor may not partner or subcontract with anyone to provide goods and services required under a resulting contract if that subcontractor or partner assisted in the development of this solicitation.
Will your company, or an employee, agent, or representative of your company, participate in the evaluation of the proposals received in response to this RFP?	If you entered "YES", you are not eligible for contract award or to work as a subcontractor for the awarded vendor.
5. State of Michigan Experience	
Does your company have experience working with the State of Michigan? If so, please provide a list (including the contract number) of the contracts you hold or have held with the State for the last 10 years.	
6. Prior Experience	
Describe at least 3 relevant experiences from the last 5 years supporting your ability to successfully manage a contract of similar size and scope for the work described in this RFP. Experience should be with the proposed assessment being proposed for this RFP. If not, explain how the experience assessment is similar to the assessment being offered.	
Experience 1	
Company name Contact name Contact role at time of project Contact phone Contact email	
City State Zip	
1. Project name and description of the scope of the project 2. What role did your company play? 3. How is this project experience relevant to the subject of this RFP?	
Dollar value	
Start and end date (mm/yy – mm/yy)	
Status (completed, live, other – specify phase)	
Results obtained	
Experience 2	
Company name Contact name Contact role at time of project Contact phone	

Contact email	
City	
State	
Zip	
1. Project name and description of the scope of the project	
2. What role did your company play?	
3. How is this project experience relevant to the subject of this RFP?	
Dollar value	
Start and end date (mm/yy – mm/yy)	
Status (completed, live, other – specify phase)	
Results obtained	
Experience 3	
Company name	
Contact name	
Contact role at time of project	
Contact phone	
Contact email	
City	
State	
Zip	
1. Project name and description of the scope of the project	
2. What role did your company play?	
3. How is this project experience relevant to the subject of this RFP?	
Dollar value	
Start and end date (mm/yy – mm/yy)	
Status (completed, live, other – specify phase)	
Results obtained	
7. Standard Contract Terms	
Bidder must affirm agreement with the attached Contract Terms. If not in agreement, written exceptions in accordance with the Evaluation Process section 6 of the Proposal Instructions must be provided with Bidder's proposal.	
8. Michigan Economic Impact	
Number of employees currently employed at locations within the State of Michigan	
Number of additional employees to be employed at locations within the State of Michigan if awarded this Contract (if any)	
Minimum wage paid to employees employed at locations within the State of Michigan	
Average wage paid to employees employed at locations within the State of Michigan	

Percentage of employees employed at locations within the State of Michigan that are covered by employer-provided health insurance	
9. Other	
Abusive Labor Practices. The Contractor certifies that it will not furnish any Deliverable that was produced fully or partially by forced labor, forced or indentured child labor, or indentured servitude.	Enter YES or NO.
Certification of Michigan Business- Public Act 431 of 1984, Sec. 268. I certify that the company has, pursuant to the provisions of Sec 268 of Public Act 431 of 1984, filed a Michigan Business Tax Corporate Income Tax Return. I certify that the company has, pursuant to the provisions of Sec 268 of Public Act 431 of 1984, filed a Michigan Income Tax return showing income generated in, or attributed to the State of Michigan. I certify that the company has, pursuant to the provisions of Sec 268 of Public Act 431 of 1984, withheld Michigan Income Tax from compensation paid to the company's owners and remitted the tax to the Michigan Department of Treasury.	Enter YES or NO.
Iran Linked Business- Public Act 517 of 2012. I certify that the Company is not an Iran-Linked business as defined by Public Act 517 of 2012.	Enter YES or NO.
Clean Corporate Citizen. I certify that the Company is a Clean Corporate Citizen as defined by the Environmental Protection Act, 1994 PA 451.	Enter YES or NO.
Convict Labor. The Contractor certifies that if using convict labor, it is complying with all applicable state and federal laws and policies.	Enter YES or NO.
SOM Debt/Tax Payment. All SOM tax/debts. I certify that all applicable State of Michigan taxes are paid, and that no outstanding debt is owed to the State of Michigan.	Enter YES or NO.
Authorization to Verify Information provided by Vendor. I authorize the State to verify that all information provided in this registration, in bidding and contracting documents, and any attachments or supplement documents and processes are accurate.	Enter YES or NO.

STATE OF MICHIGAN

Request For Proposal No. 200000001688
Work Skills Assessment for MDE and MDOC

SCHEDULE A STATEMENT OF WORK CONTRACT ACTIVITIES

This schedule identifies the anticipated requirements of any Contract resulting from this RFP. The term “Contractor” in this document refers to a Bidder responding to this RFP.

The Contractor must respond to each requirement or question and explain how it will fulfill each requirement. Attach any supplemental information and appropriately reference within your response.

The bulk of this RFP is divided into three parts. Part I describes the general requirements needed for the Work Skills Assessment. Part II describes the specific requirements and Statement of Work for the Michigan Department of Corrections. Part III describes the specific requirements and Statement of Work for the Michigan Department of Education.

I. BACKGROUND

1. Michigan Department of Corrections

The Michigan Department of Corrections (MDOC) uses an employment readiness model that introduces prisoners to employability skills and helps them create a portfolio that can be used upon release. Prisoners are given vocational and workforce development programming that may lead to state and national certifications. The MDOC is looking for a nationally recognized, evidence-based work readiness assessment (test) that offers national certification and can be part of our prisoners’ portfolios. The assessment must meet the standards of MCL 791.234d which states in part that a “prisoner received a silver level or better on his or her national work readiness certificate, or a similar score, as determined by the department, on an alternative job skills assessment test administered by the department.”

2. Michigan Department of Education,

The Michigan Department of Education currently offers a Work Skills test as a part of the Michigan Merit Examination (MME), one of Michigan’s summative assessment programs. This assessment is given to students in grade 11 and to eligible students in grade 12. Michigan’s educational system consists of 56 Intermediate School Districts with 549 local school districts and 256 public school academies. Altogether, there are 3,536 schools serving over 1.5 million students. Statewide assessments are administered to all eligible students, including students with disabilities and English learners.

The Office of Educational Assessment & Accountability (OEAA) is responsible for the development and administration of multiple K-12 student assessment programs, as well as the high-stakes use of the assessment results for State and federal accountability and evaluation purposes. Therefore, the work performed by the Contractor must be of the highest quality and must conform to the most recent Standards for Educational and Psychological Testing as published by the American Educational Research Association, the American Psychological Association, and the National Council on Measurement in Education.

MDE and the Work Skills Administration Contractor are responsible for ensuring that all tasks and activities that are carried out as part of this Contract comply with all legislation, regulations, and policies surrounding assessment. These include, but are not limited to, the following, where applicable:

- Every Child Succeeds Act (ESSA) 2015

- The Federal Individuals with Disabilities Education Act (IDEA), or successor act;
- The Federal Americans with Disabilities Act (ADA), or successor legislation;
- The Federal Family Educational Rights and Privacy Act (FERPA), or successor legislation;
- The Federal American Recovery and Reinvestment Act, its various components, or successor legislation;
- The ESEA Flexibility Request approved by the U.S. Department of Education (USED), July 2012;
- The Federal guidelines and regulations regarding NCLB, IDEA, ADA, or ARRA, including both specifications for assessment programs as well as specifications for accountability using the results from those assessment programs;
- The Michigan State School Aid Act, or successor legislation;
- The Michigan School Code, or successor legislation;
- The Michigan Assessment of Remedial Assistance Programs, or successor legislation;
- The Michigan State Board of Education (SBE) policy on learning expectations for Michigan students, or successor policies;
- The Michigan SBE policy to include all students in the Michigan Educational Assessment System, or successor policies;
- The Michigan SBE policy regarding testing of Limited English Proficient (LEP) students, who are referred to as English Learners, or successor policies.

All of the assessment programs development and administered by OEAA are mandated by one or more of the laws and policies listed above. As such, Michigan assessment systems are subject to Federal and State audit, including all contracts that are required to implement the programs.

II. SCOPE

The State is seeking a Contractor to provide an off the shelf Work Skills assessment for both MDOC and MDE resulting in a nationally recognized work skills credentials. The Contractor must provide products and processes for the administration, scoring, and reporting of the assessment. The assessment must be available in paper format, and MDE is seeking an online assessment format in conjunction with the paper format if this is an option that the Contractor offers in their assessment administration.

1. MDOC

This assessment must measure foundational skills including math, graphic literacy and document knowledge required for success in the workplace and help measure the workplace hard and soft skills that can affect job performance. The Contractor must provide an assessment that is paper-based and deliver test booklets and answers sheets to the MDOC upon request. Scoring services and a database of the results must also be offered. MDOC staff will administer the assessments for MDOC. Contractor will score assessments and train MDOC staff to administer the assessments.

2. MDE

The result of this RFP will be to hire a Contractor to provide products and processes for the administration, scoring, and reporting of the work skills test to all students in Grade 11 and eligible students in Grade 12 during the 2021-22, 2022-23, and 2023-24 school years. This Schedule A includes administration in school during the regular school day, scoring, and providing MDE with student score results via a student data file including the Michigan student Unique Identification Code (UIC). The Contractor must use a coordinated approach with MDE staff to plan and implement all tasks, subtasks, and activities related to this RFP that must be conducted over the life of the Contract. The Contractor must coordinate with MDE to develop a schedule for all work deliverables.

All portions of the MME tests are scheduled to be administered statewide. A print (paper/pencil) version of the test must be made available for use for all three school years of the contract. There must be an option to administer the proposed test online.

During the term of the Contract, new legislation and/or funding levels may determine that a current program be modified and/or other programs added. The Contractor must be flexible in accommodating such changes. All proposed changes must be approved through the change management process (a Contract Change Notice).

The administration and reporting of Statewide assessments are high-profile activities, with results used for State and Federal reporting. As State and Federal reform efforts have been enacted, including assessing educator effectiveness and student growth, the complexity of and the demands placed upon the Michigan Educational Assessment Systems have grown. It is, therefore, imperative that State and Contractor work as partners in ensuring that the integrity of the project management plans and processes are not compromised, that agreed-upon timelines are met, and that all deliverables, including test materials, administration processes, scoring, data analysis, and reporting are accurate, and are appropriate for the intended audience, and encompass the highest standards.

III. REQUIREMENTS

1. General Requirements

- A. The Contractor must provide an assessment that produces a nationally recognized work skills credential.

Bidder's Response must include the proposed assessment and describe how it produces a nationally recognized work skills credential:

B. Work Skills Assessment

Contractor must identify the work skills test proposed, including the characteristics, evidence that the instrument is valid, reliable, and appropriate for the target population and intended purposes as set forth below:

- 1) The Contractor must propose an "off-the-shelf" work skills test that results in a nationally recognized work skills credential for administration.

- a. Name of test instrument proposed

Bidder's Response:

- b. Quantity of items by item type on each form

Bidder's Response:

- c. Number of test forms and (if applicable) dates published

Bidder's Response:

- d. Administration guidelines

Bidder's Response:

- e. Length of time to administer

Bidder's Response:

- f. Administration format (print, online, or both)

Bidder's Response:

- g. Reporting of scores

Bidder's Response:

- h. Samples of all materials for the proposed work skills test.

Bidder's Response, including attached samples of the proposed work skills test:

- 2) The Contractor must identify all accommodations that are available for the work skills test product proposed and describe the characteristics, including:

- a. **FOR MDE:** Name and description of each accommodation that is available (i.e. Spanish, Arabic, Braille, large print, reader script printing), using the Accommodations Tables that are provided in Section 1.3, B.

- b. Number of test forms and (if applicable) dates published

Bidder's Response:

- c. Administration guidelines

Bidder's Response:

- d. Length of time to administer

Bidder's Response:

- e. Administration format (print, online, or both)

Bidder's Response:

- f. Reporting of scores

Bidder's Response:

- g. Type of reporting

1. Aggregated with non-accommodated scores (standard accommodation)

2. Confirm that the accommodation is eligible for work skills certification

3. If reported separately, explain rationale.

Bidder's Response:

- h. Samples of all accommodated materials for the proposed work skills test.

Bidder's Response, including attached samples, for accommodated materials:

- 3) The Contractor must identify the research supporting the development of items, content included, test blueprints, and item replacement for each work skills test proposed. At a minimum, include the following:

- a. Development of test blueprints

Bidder's Response:

- b. Description item development and review process

Bidder's Response:

- c. Numbers of items per strand (benchmark) and content area, with scores for each

Bidder's Response:

- d. Technical properties of underlying scales

Bidder's Response:

- e. Description of the scaling procedures including, but not limited to:

1. Psychometric modeling, equating procedures, and item analyses (classical, item response measurement theories)
2. Description of processes to account for the different grade levels of test takers
3. Score reliability data and associated standard error of measurement in scale score units

Bidder's Response:

- f. Sample(s) of criterion-referenced reporting

Bidder's Response:

- g. Inclusion of special populations in norms; specifically, all available accommodation and accessibility features for students with disabilities and English learners that provide valid scores

Bidder's Response:

- 4) Provide evidence that the proposed work skills instrument meets psychometric standards of reliability, validity, and are appropriate for the target population and purposes for which the test will be used, including the following:

- a. Norming evidence:

1. Describe norming procedures

Bidder's Response:

2. Processes for determining frequency of norm updates

Bidder's Response:

3. Identify characteristics of students included in norms

Bidder's Response:

4. Accommodations included in norms

Bidder's Response:

5. Describe process for identifying characteristics of students included in norms

Bidder's Response:

- b. Describe equating and scaling processes

Bidder's Response:

- c. Evidence for criterion-referenced reporting

Bidder's Response:

- d. Samples of technical reports and related documents

Bidder's Response:

C. The Contractor must provide an assessment that is available in Paper/Pencil format:

Bidder's Response:

D. Testing Requirements for both MDE and MDOC

The Bidder may offer an alternative bid that varies from the specifications. An alternative bid must clearly describe all variances from the specifications and the proposal must include descriptive literature that contains complete specifications, if available. The State, at its sole discretion, will determine if an alternative bid meets the requirements and if it is the best value for the State.

Bidder must indicate if they are proposing an alternative bid that varies from the specifications in this RFP:

1.2. Michigan Department of Corrections Requirements

A. Testing Services and Materials

- 1) The Contractor must provide testing service for career readiness testing in accordance with National Work Readiness Certificate standards. The test must consist of three components:

- a. Applied Math – this assessment measures the skills people use when they apply mathematical reasoning, critical thinking, and problem-solving techniques to work-related problems. The test questions require the examinee to set up and solve the types of problems and do the types of calculations that occur in the workplace.

This test is designed to be taken with an approved calculator. A formula sheet that includes all formulas required for the assessment must be provided. While individuals may use approved calculators and conversion tables to help with the problems, they still need to use math skills to think them through.

Bidder's Response must indicate if their assessment can meet the requirements above, along with detailed information describing Bidder's ability to test the component:

- b. Graphic Literacy or Equivalent – this assessment measures the skill people use when they work with information embedded in such work-related graphics. Examinees are

asked to find information in a graphic or insert information into a graphic. They also must compare, summarize, and analyze information found in related graphics.

Bidder's Response must indicate if their assessment can meet the requirement above, along with detailed information describing the Bidder's ability to test the component:

- c. Workplace Documents or Equivalent – this assessment measures the skill people use when they read and use written text in order to do a job. The written texts include memos, letters, directions, signs, notices bulletins, policies, and regulations.

Bidder's Response must indicate if their assessment can meet the requirement above, along with detailed information describing Bidder's ability to test the component:

- 2) The State may request tests in languages other than English and Spanish. Additionally, the Contractor must provide teaching materials in English and Spanish.

Bidder's Response must include information regarding teaching materials and the ability to test these subjects in other languages:

- 3) The Contractor must allow the State to administer a paper and pencil version of the career readiness assessment (test). Answer sheets must be able to be scanned for scoring purposes.

Bidder's Response must include their ability to meet the paper and pencil version requirements above:

- 4) The test ratings must have four levels, Bronze, Silver, Gold, and Platinum or similar rates. See Attachment A, Testing Standards for rating levels.

Bidder's Response must include their ability to meet the above requirement. If the Bidder has an alternative, the Bidder must provide how the alternative would meet the requirement:

- 5) The Contractor must supply the State with approved testing materials (test booklets and answers documents) as needed.
 - a. Testing materials must be received by the Contractor at least 21 calendar days before the scheduled test date.
 - b. MDOC will monitor and return material in compliance with the procedures on the material order form.

Bidder's Response:

- 6) After testing, all material will be returned by MDOC schools to the Contractor for scoring.

- a. Contractor must provide return packaging assigned for use and tracking by the Contractor and the State. MDOC is responsible for labels and cost of return shipping.
- b. Schools must be able to track material shipments; Contractor must provide the State with tracking date during and following the shipping window when requested. Contractor will provide a return receipt after receiving items from MDOC when requested.

Bidder's Response:

B. Scoring and Results

- 1) The Contractor must score each test and notify the State of test results. Results will be released to the desired location written on the scoring order form. Tests will be scanned by Contractor for scoring and the Contractor must provide a transcript of test scores.
- 2) Test results must show the standard the prisoner achieved such as, Bronze, Silver, Gold, or Platinum or the equivalent of these standards. (See Attachment A).
- 3) Test results will be provided to the State within 10 calendar days upon Contractor's receipt of when the prisoner has taken the tests and the scores for each participant, including those prisoners who complete and pass the test.
 - a. All results will be reported to the State within 10 calendar days upon Contractor's receipt of when the prisoner has taken the tests and the scores for each participant, including those prisoners who complete and pass the test.
 - b. For paper tests, batch scoring represents the standard scoring process. Once the Contractor receives completed answer documents, the documents must be scanned and score reports must be generated and shipped within 10 calendar days. MDOC will be invoiced only for the tests Contractor scores.

Bidder's Response must include a description of the scoring process(es) specifying the quality control measures for scoring in addition to how the Bidder will meet the requirements above:

- 4) The Contractor will ensure that the test scores are available to the State and to the prisoners upon release to the community as needed at no additional charge. Test scores, certificate levels, and other information collected as part of the testing process will be indefinitely maintained by Contractor and the Contractor's online report portal system or similar type repository.
- 5) A prisoner released from a MDOC facility must be able to maintain access to their information through an online account that is created each time a certificate is issued. The account must enable a user to review certificate status and make a credential public in order to share with prospective employers and other community members. Access to the account must be available for an indefinite period of time. There must be no fee to access online accounts unless the user intends to purchase additional copies of a Career Readiness Certification they received.
- 6) No specific number of tests are guaranteed to be administered.

Bidder's Response:

C. Database

- 1) The Contractor must maintain a database of scores indefinitely for all participants who pass the approved career readiness testing. Information will include:
 - a. Name
 - b. Level Achieved
 - c. Test Date
- 2) At the end of the Contract, the Contractor must maintain database records indefinitely. The Contractor must provide testing results to the State indefinitely upon request at no additional cost to the State.
- 3) The Contractor must ensure that data is properly secured from data loss or destruction. The Contractor must retain all student testing data in a highly secure location with off-site backup.

Bidder's Response:

The Contractor must provide a detailed disaster recovery plan that addresses possible occurrences such as server failure, loss of internet connectivity, or data corruption with their bid response. Please see Schedule F, Exhibit 1.

- 4) The Contractor must ensure that MDOC has online access to scores of participants and the statistical reporting at all times.

Bidder's Response:

- 5) The Contractor must provide MDOC with a minimum of two secure logins with user ID and password to the online database.

Bidder's Response:

- 6) The Contractor must provide a Career Readiness Certification each time it completes a monthly sweep of the Contractor's online portal of data, or similar system, for each prisoner who completes and passes the career readiness test (Silver (or similar) or above is a pass). The Career Readiness Certification may be provided electronically in PDF format. Certificates must state the level achieved.

Bidder's Response:

- 7) The Contractor must provide a Data System with data searches to allow MDOC the ability to determine if prisoner students have obtained a Career Readiness Certificate from organizations outside of MDOC.

Bidder's Response:

- 8) The Contractor must provide a web-based user interface that will be used by testing staff to manage and access the assessments. The site will allow MDOC to create registrations for additional testing staff. The site will allow MDOC to authorize assessments and print individual score reports for completed assessments. The site must be specific to MDOC. The Contractor will provide four (4) User IDs and passwords that will allow access to the site and complete administrative functions. Staff members assigned as administrators will be the only persons authorized to access the administrative realm URL. The site will be at no cost to the State.

Bidder's Response:

1.3. Michigan Department of Education Requirements

A. Work Skills Test

- 1) The proposed assessment must be administered to Michigan's Grade 11 students (and eligible Grade 12 students) each spring. The test must be administered on school site during the school day with score results to be reported to MDE via a student data file including the Michigan student UICs.

Bidder's Response:

- 2) The Contractor must provide statistical and other technical evidence that the proposed work skills test is aligned with Michigan's content standards. Evidence could be provided in the fashion of formal alignment study reports, technical manuals or other research-based alignment. Proposed "off-the-shelf" work skills test must be aligned with Michigan's content standards and expectations for each subject included in the work skills test:

a. Mathematics:

Grades 9-12 – Common Core State Standards (CCSS)

Bidder's Response:

b. English Language Arts:

Grades 9-12 – Common Core State Standards (CCSS)

Bidder's Response:

c. Science:

Grades 9-12 – High School Content Expectations (HSCEs)

Bidder's Response:

d. Social Studies:

Grades 9-12 – High School Content Expectations (HSCEs)

Bidder's Response:

B. Bidder Directions for the Accommodations Tables

As required by [ESSA, Sec. 1111\(b\)\(2\)\(B\)\(V\)\(vii\)](#), the Contractor must provide or support reasonable accommodations and tools for students with disabilities. Additionally, as required by [ESSA, Sec. 1111\(b\)\(2\)\(B\)\(V\)\(vii\)](#), the Contractor must provide or support reasonable accommodations and tools to support students who are English Learners.

The embedded online testing tools listed below are required and are industry standards because they enhance testing fairness and accessibility for all students, and do not violate tested constructs. Many of these online tools are considered universal tools for Michigan assessments. Please indicate the current availability of each in Contractor's system.

Bidder's must follow the directions provided below in responding to the State of Michigan Accommodations Table.

- 1) For each accommodation listed, mark Y for YES, N for NO in the box that applies.

Y/N (Spring 2021)

- a. Mark **Y** if the accommodation is or will be an accommodation that is available to Michigan students for the Spring 2021 test cycle.
- b. Mark **N** if the Bidder's print directions/materials do not support/allow this accommodation for the Spring 2021 test cycle.

- 2) **Future Accommodation Inclusions**

If there is an accommodation that is scheduled for a future release, please indicate when that accommodation will be available for use. If there are no plans for that accommodation to be included in future assessments, please indicate that with a 1, 2, 3, or 4, as defined below.

- a. "1" – Currently provided as a standard feature or product
- b. "2" – Not currently provided but, is planned as a standard feature or product at no cost to the State.
- c. "3" – Not currently provided but, will be added at the additional cost detailed in the cost proposal and will be supported in future releases at no additional cost.
- d. "4" – Not supported.

- 3) Bidders must use the **Response** box to provide any additional information related to accommodations.

The Bidder response to each accommodation must contain adequate information for evaluation without referencing responses to other requirements.

- 4) **Table 1.1 Accommodations Tables:**

- a. Accessibility Tools

Please indicate the current availability of each in Contractor's system:

Accessibility Tool	Currently Available Y or N	Future Accommodations Inclusions	Response
Line guide			
Spellcheck			
Highlighter			
Answer Eliminator			
Strikethrough (creates lines through text in item/passage)			

Accessibility Tool	Currently Available Y or N	Future Accommodations Inclusions	Response
Magnifier/Zoom Feature (magnifies all text and graphics without distortion)			
Digital Notepad (item by item, does not allow retention of notes beginning to end of testing)			
Global Notes (global, allows retention of fixed form notes from beginning to end of testing)			
Color Contrast (contrast options must be approved by the American Printing House for the Blind)			
Color Overlay (colors must be approved by the American Printing House for the Blind)			
Masking			

b. Measurement Tools

The following tools are related to the subject areas of mathematics and science. Please indicate the current availability of each measurement tool in Contractor's system.

For Measurement Tools, please indicate the current availability of each in Contractor's system:

Measurement Tool	Currently Available Y or N	Future Accommodations Inclusions	Response
Protractor			
Ruler (centimeter)			
Ruler (inches)			

c. Calculators

In some cases, the availability of a calculator is necessary to assess the construct being measured. Please indicate the current availability of each type of calculator in the Contractor's system. For Calculator Tools, please indicate the current availability of each in the system:

In the table below, the Bidder Must Respond for Meeting each of the Requirements

Calculator Tool	Currently Available Y or N	Future Accommodations Inclusions	Response
Basic Calculator			
Graphing Calculator/Tool			
Scientific Calculator			

d. Language Tools and Accommodations

Many assessment tools are necessary for students who are non-native English speakers and may need linguistic supports that do not negatively impact the tested construct. These help to ensure that content is tested instead of language ability. In some cases, these supports may also provide support for native English speakers and are tools the State currently offers to students on Michigan assessments.

For Language Tools and Accommodations, please indicate the current availability of each in the system:

In the table below, the Bidder Must Respond for Meeting each of the Requirements

Language Tools and Accommodations	Currently Available Y or N	Future Accommodations Inclusions	Response
Dictionary			
Glossary			
Thesaurus			
Glossing – English (Allows students to view English non-construct relevant synonyms for item/passage specific words)			
Glossing – Arabic (Allows students to view Arabic non-construct relevant synonyms for item/passage specific words)			
Glossing – Spanish (Allows students to view Spanish non-construct relevant synonyms for item/passage specific words)			
Full-text translation (test questions and directions) - Arabic			
Full-text translation (test questions and directions) – Spanish			

e. For full-text translations, please provide a description of the current system's functionality (stacked translations, side-by-side, etc.).

1. Full-text Translation-Spanish

Bidder Response for Meeting each of the Requirements Above

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2. Full-text translation-Arabic

Bidder Response for Meeting each of the Requirements Above

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f. Audio Content Tools

In order to include students who have visual impairments or are English Learners with visual impairments, it is required that the Contractor provide access to text via audio supports. These supports can be allowed for particular grades, programs, subject areas, and particular portions of test questions/passages because it does not violate the construct being assessed. Please indicate the current availability of each audio content tool in the system.

For Audio Content Tools, please indicate the current availability of each in your system:

In the table below, the Bidder Must Respond for Meeting each of the Requirements

Audio Content Tool	Currently Available Y or N	Future Accommodations Inclusions	Response
Text-to Speech/English			
Human Voice Audio/English			
Text-to-Speech/Spanish			
Human Voice Audio/Spanish			
Text-to-Speech/Arabic			
Human Voice Audio/Arabic			

g. Human Voice Audio (HVA) and Text-to-Speech (TTS)

1. The Contractor's system must adhere to the following requirements when presenting audio versions of test items. Audio versions may be required for any online tests (fixed form or CAT) and may be needed in multiple languages (English, Spanish, and Arabic). It is recommended that the text-to-speech voice be grade-level appropriate and utilize Broadcast Spanish and Standard Arabic.

Bidder Response for Meeting each of the Requirements Above

Currently Available Y or N	Future Accommodations Inclusions	Response

2. If the Contractor's system provides HVA as the audio option, the system allows for the stem and answer choice to be played and enabled separately.

Currently Available Y or N	Future Accommodations Inclusions	Response

3. The System must allow students to control the speed and volume of the TTS or HVA option within the system.

Bidder Response for Meeting each of the Requirements Above

Currently Available Y or N	Future Accommodations Inclusions	Response

4. The System must provide a visual feature that identifies individual words as they are read aloud to students that accompanies the TTS solution.

Bidder Response for Meeting each of the Requirements Above

Currently Available Y or N	Future Accommodations Inclusions	Response

h. American Sign Language and Closed Captioning

For students who are hearing impaired the only way they can access audio content within ELA assessments that may assess students on listening comprehension is through American Sign Language (ASL) or closed captioning. ASL has also traditionally been provided to students learning Math content and has therefore been a part of the M-STEP math assessments. ASL is the predominant dialect used in most deaf schools and communities. Both ASL and closed-captioning are visual modes of communication. Please indicate the current availability of each accommodation in the system.

1. For ASL and closed captioning, please indicate the current availability of each in the system:

In the table below, the Bidder Must Respond for Meeting each of the Requirements

American Sign Language and Closed Captioning	Currently Available Y or N	Future Accommodations Inclusions	Response
ASL (human signer video)			
ASL (animated/avatar)			

American Sign Language and Closed Captioning	Currently Available Y or N	Future Accommodations Inclusions	Response
Closed-Captioning			

2. If Contractor's ASL system currently provides an animated or avatar solution, please describe what research Contractor's organization has conducted around the effectiveness and naturalness of the current animated ASL solution.

- **Miscellaneous:** Because ASL also relies on nuanced facial expressions and torso movements, some animated ASL solutions have not been able to effectively reproduce these human elements. Huenerfauth, M. (2009). Improving Spatial Reference in American Sign Language Animation through Data Collection from Native ASL signers, UAHCI 2009 Proceedings of the 5th International Conference on Universal Access in Human-Computer Interaction, Retrieved on August 7, 2014 from <http://www.qc.cuny.edu/Academics/Degrees/DMNS/Faculty%20Documents/Huenerfauth5.pdf>.

Bidder Response for Meeting each of the Requirements Above:

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- i. Companion Resources

In order to measure students' knowledge in some subject areas and topics, additional resource documents that do not affect the construct being tested can often times be made available to students. Because content delivered in each subject area and grade is different, flexibility in the availability of these resources is necessary to ensure content validity retention. Please indicate the current availability of each type of companion resource and availability of customization in the system.

1. For Companion Resources, please indicate the current availability of each in the system:

In the table below, the Bidder Must Respond for Meeting each of the Requirements

Companion Resources for Fixed Form Testing	Currently Available Y or N	Future Accommodations Inclusions	Response
Periodic Table			
Math Resources (basic formulas)			
Ability to add additional companion resources			
Other: Please stipulate in response			

2. Embedded companion resources and embedded resources should also be customizable at the subject, and grade level.

Bidder Response for Meeting each of the Requirements Above

Currently Available Y or N	Future Accommodations Inclusions	Response

5) Alternative Languages

It is required that the Contractor's proposed paper and pencil version of the assessment be offered in a Spanish version. In the box below, please describe other language formats that the paper and pencil version of the assessment is offered in.

Bidder's Response to the Requirements described above:

6) Braille

It is required that the Contractor's proposed paper and pencil version of the assessment be offered in braille. In the box below, please describe the braille options available.

Bidder Response for Meeting each of the Requirements Above

Braille Form	Currently Available Y or N	Future Accommodations Inclusions	Response
UEB			
UEB with Nemeth			
Contracted Braille			
Uncontracted Braille			

7) Navigation

It is required that if the Contractor's proposed solution includes an online assessment that this system allows for students with physical disabilities to navigate through the system independently and answer questions within the system independently through the use of switches or tab navigation.

Bidder's Response to the Requirements described above:

C. Implementation Activities

Bidders must submit written responses for each implementation activity, describing in detail how they will meet the specific requirements of the deliverable.

- 1) Planning for the Kick-Off Meeting** – MDE will define the order of operations and drive the meeting agendas.

- a. Contractor must work closely with OEAA to prepare a preliminary agenda and schedule that will be sent to OEAA for review and approval in advance of the Kick-Off Meeting for their respective component.
 1. For spring 2021, the Kick-Off Meeting will be scheduled within two weeks of the Contract start date. Therefore, the preliminary agenda and schedule will be sent to OEAA seven days prior to the meeting.
 2. For subsequent test cycles, the preliminary agenda and schedule will be sent to OEAA 14 days prior to the Kick-Off Meeting.
- b. An action item for this meeting must be the production of an OEAA approved baseline schedule that will be developed collaboratively in the kick-off meeting.
- c. Contractor for the Work Skills Test must each work closely with OEAA to identify and schedule meetings/work sessions for deliverables with early completion dates.

Bidder's Response to the Requirements described above:

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2) Electronic Document Management Site

- a. Contractor must agree to use MDE's SharePoint site for document management and collaboration with MDE. Project management documents (schedules, agendas, reports, meeting minutes, etc.), requirements, POFs of print-ready assessment materials, and all other documents related to this Contract must be kept in this permanent electronic documentation repository
- b. OEAA reserves the right to have any individual's access to MDE's SharePoint site removed.

Bidder's Response to the Requirements described above:

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3) Kick-Off Meeting:

Contractor staff, including the key staff, must meet with OEAA to review project plans, schedules, and implementation activities for the MME to ensure that MDE objectives and timelines are met.

- a. Location and Duration
The face-to-face meeting will take place in Lansing and will occur within three weeks of the Contract start date. For additional information regarding meeting planning, see Section 5.2, B.
- b. Review Draft from Contractor and Finalize Project Plans, Schedules, and Implementation Activities.
The goal is to finalize schedules for new and existing activities and tasks required for each activity, to initiate work for producing materials needed for administration and reporting results for the next test cycle.
- c. Demonstration of OEAA SharePoint site and the process by which Contractor staff will be provided access.
- d. Demonstration of OEAA Architecture Components
OEAA will provide an overview and brief demonstration of the OEAA Secure Site and in-house psychometric and reporting services. OEAA will address questions related to pre-identification of students, assessment material orders and tracking, requirements,

data file structure, reporting requirements, and any other topics needed to execute each assessment program.

e. Meeting Responsibilities

Contractor must provide leadership and supporting materials needed for their respective Kick-Off Meeting, such as the agenda and documents required for implementing the test administration.

Bidder's Response to the Requirements described above:

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4) Test Center Establishment

All 11th grade students and some 12th graders enrolled in public schools are expected to participate in the Work Skills assessment. Nonpublic schools can choose to participate.

- a. Contractor must work with OEAA to provide in an automated process and file of all schools that are established as test centers for the current test cycle
- b. Contractor must make appropriate outreach and follow up to ensure all required schools are established
- c. Contractor must document why required schools are not established

Bidder's Response to the Requirements described above:

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5) Quality Assurance Plan (QAP) and Processes

Contractor must develop a QAP and processes for gathering requirements, development of business rules, documentation, and User Acceptance Testing (UAT) to ensure that products and processes are accurate and provided according to projected timelines. The QAP and processes must include the following:

- a. Existing quality assurance steps
Contractor must provide a description of existing quality assurance steps currently used for all "off-the-shelf" test products and standard processes.
- b. Requirements Gathering and Documentation
Contractor and OEAA may utilize Michigan's existing requirement documents as a basis for any customized requirements.
- c. User Acceptance Testing (UAT)
Contractor must describe the UAT that will be used to ensure that all products and processes (including hand-offs of data and deliverables) are accomplished and produced with 100% accuracy.

Bidder's Response to the Requirements described above. To assist Bidders, a description of the existing requirement documents Section b above is located with the appropriate work deliverable. Bidder's response must include a description of the UAT that will be used:

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6) Call Center

The Contractor is responsible for providing call center services to handle phone calls and emails regarding Michigan assessments. The toll-free phone number for the field must also be provided to MDE.

- a. The Contractor is responsible for hosting a call center for the duration of the Contract.
 1. The Call Center must be staffed by persons dedicated to call center responsibilities and specifically trained to support the Contractor's Work Skills assessment.
 - a. Within 30 days of the execution of the Contract, the Contractor must provide a support plan, for MDE's review and approval, which documents how calls will be answered, how responses to questions that cannot answer will be vetted and handled, and an organizational chart identifying all staff and roles within the call center team.
 - b. Within 30 days of the execution of the Contract, the Contractor must provide an emergency plan of how calls will be handled in an emergency such as natural disasters, phone equipment failure, etc.
 2. The Call Center(s) must provide the following support.
 - a. Call Center agents must respond to questions regarding their Work Skills Assessment administration. The call center must utilize an industry standard call center knowledge base for the for the purpose of answering questions, logging calls, monitoring calls, etc.
 - b. If an issue with the quality of the call center responses, wait times, etc. occur and are brought to the attention of the contractor, investigation details and plan be presented back to OEAA within 1 business day.

Bidder's Response:

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- b. Contractor staff must be available from 8:00 a.m. to 5:00 p.m. ET/ET on Monday through Friday (excluding State holidays but including school summer vacation days) throughout the entire duration of the Contract to ensure consistent availability to the field. A listing of State holidays can be found at <http://www.michigan.gov/som/0,1607,7-192-29938-90605--,00.html>
 1. During test administration, Contractor staffing must be available beginning at 7 a.m. ET/ET to ensure a timely response to callers prior to an assessment. The Assessment Coordinators will use the Call Center number to ask questions.
 2. The Contractor staffing of this Call Center can be variable, but must be at adequate levels, subject to the following:
 - a. Callers must not be on hold waiting to speak to an agent for more than four minutes. Transferring the caller to voicemail does not satisfy the four-minute maximum.
 - b. Callers must be given an option to leave a voicemail in place of being put on hold.
 - c. Voicemails must be returned within three business hours.
 - d. Callers should not receive a busy signal at any time.
- c. The Contractor must provide the following reports as part of the quality assurance plan to ensure that quality customer service is being provided to the field.
 1. Contractor provide Call Center Detail Reports on a monthly basis, providing:
 - a. Summary of call issues.

- b. Details of each call may be requested by MDE to investigate or used to determine problems in the field that can be resolved through additional communications or other means.
2. The Contractor must provide monthly Call Center reports, within 5 business days after the end of the month, including:
 - a. Volume of calls by day and hour.
 - b. Average time on hold by day and hour.
 - c. Minimum and maximum hold time by day and hour.
 - d. Number of dropped calls by day and hour.
 - e. Average time calls on hold before calls were dropped by day and hour.
 - f. Response time calculations must not count transferring the caller to voicemail as a response.
3. Additional information may also be required of the Contractor for the monthly Call Center report upon request of the Program Manager based upon experience with the performance of the Call Center and/or unanticipated types or volumes of support calls.
4. The Contractor must include in their response, (a) sample summary of call issues report, (b) report to cover requirements sample "approved answer" document.

Bidder's Response to the Requirements described above:

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7) Online Test Delivery

Contractor proposing use of online testing formats to administer one or more work skills tests during the Contract must provide an online test system that adheres to industry best practices, strict security measures, and uses OEAA approved interfaces for test administration and scoring processes.

Please Note: Contractor must also provide a paper and pencil version (print format) as an option for schools and districts who are unable to support online test administration.

Contractor must indicate how use of the online system proposed addresses the following:

a. Online Test System Characteristics

Contractor must describe characteristics of the online test delivery system proposed:

1. List each work skill test offering an online delivery format, including the date of implementation, system updates and/or enhancements, and current test volumes.
 - a. Identification of options (school, student, etc.) to use print materials (i.e. paper-and-pencil format)
 - b. Identification of online test delivery system ownership and description of the following processes:
 - i. System updates, enhancements (how decisions and scheduling are determined, etc.).
 - ii. Client notification of system issues, impending changes, etc.
 - iii. Scheduling of system maintenance.

- iv. Import/Export of a State's Pre-Identification files and other data during testing (See Section 1.3, C.9 Pre-Identification of Students).
- 2. Describe online test system characteristics, including:
 - a. Type of solution – client or web-based
 - i. If client-based, describe workstation deployment options (single machine, network)
 - ii. If client-based, describe how test software and subsequent updates are installed and removed.
 - b. List of the workstation requirements, including the following elements:
 - i. Operating system requirements
 - ii. Memory requirements
 - iii. Screen resolution requirements
 - iv. Bandwidth requirements
 - v. Plug-in/client installation requirements (any other third-party software that must be installed on workstation for student testing to occur)
 - c. Scalability
 - i. Evidence or documentation of system capability of scaling to extent required in Michigan
 - ii. Capacity test results, with "capacity" defined as the maximum number of concurrent users
 - iii. Description of performance testing and sample of results
 - d. Disaster Recovery

Contractor must provide a detailed disaster recovery plan, See Schedule F, Exhibit 1, that addresses possible occurrences

 - i. Within the hosting environment (server failure, loss of internet connectivity, data corruption)
 - ii. At the online testing site (loss of internet connectivity, device reboot, etc.)
- b. School Readiness for Online Assessment

Contractor will obtain the list of schools that have been deemed ready to be able to administer online assessments from the MDE.

Bidder's Response to the Requirements described above:

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8) Preparation of Test Administration Supporting Materials

- a. **Test Administration Manual(s)**
 - 1. A section for MME Test Coordinators that provides information to ensure consistent implementation practices in schools across the State
 - a. Complete list of all test materials to be received
 - i. Student test booklet(s)
 - ii. Accommodated test(s)
 - iii. Supporting test materials for students
 - iv. Test administration manuals and directions

- v. All Auxiliary Test Materials required for the test(s)
 - b. Distribution and handling of work skills test materials
 - c. General information related to test administration timelines and schedules
 - d. Directions for Technology Coordinators to install online test delivery software
 - e. Testing environment setup (differentiated between paper and pencil and online test administrations)
 - f. Disposition of all testing materials after testing
 - g. Procedures for returning secure materials including answer documents
 - h. Specific directions and detailed procedures for administering accommodated test forms
 - i. Specific directions and detailed procedures including:
 - i. Assigning students to online test sessions
 - ii. Assigning online accommodations and supports to students
 - iii. Logging students into test sessions
 - iv. Monitoring student progress during online testing
 - j. Michigan Administration Supplement that provides Michigan specific information that is not covered in the Test Administration Manuals
2. A Section that contains information specific to administering the test
- a. Specific directions and detailed procedures for giving the test,
 - b. Recording of any supplemental demographic data,
 - c. Information related to appropriate and ethical administration practices,

Bidder's Response to the Requirements described above:

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9) Pre-identification of Students

The OEAA Secure Site produces the "Pre-ID" data of test-takers that is made available to all Contractors via a direct table read. For Contractors using machine-scannable answer documents (print materials) to capture student responses, a date range is provided for both an initial and an update pull for each test cycle. Contractor's online test format for testing must pull pre-ID student information according to pre-established schedules for each test cycle that prescribes frequency of pulls.

a. Michigan Pre-ID Label Sample and Specifications

All barcodes for use on student answer documents are printed as machine-scannable Interleaved 2 of 5 (I2of5) or Free 3 of 9 Extended Regular (Fre3of9x) barcode numbers and also as 10-digit human-readable barcode text in 8.5 point Arial font. The barcodes are approximately 1 5/8" wide and 3/8" high. The student barcode supplied by OEAA is 10 digits in length and includes a check digit that is calculated by OEAA.

Diagram 1.1 Sample Barcode Label



1. Initial Pre-ID Pull

- Contractor(s) pull the initial data of pre-identified students for a test cycle on a pre-established date according to the pre-established schedule.
- Contractor(s) must provide the printing of student labels with barcodes that can be affixed to scannable answer documents at local schools and testing sites. Labels will contain the student Unique Identification Code (State student no.) and Barcode, along with school name, number (from School Code Master) and other student demographics in a pre-identified format. School personnel will separate the labels by grade, subject, and class for use during testing.

2. Update Pull(s)

- Contractor(s) pull an update of Pre-ID data to produce labels for schools and districts to affix to scannable documents in a pre-specified area. A sample barcode label and label specifications are provided above.
- Labels for the Update Pull are printed and shipped separately from test materials.
- Contractor(s) must be able to pull pre-ID data from the OEAA system multiple times. Labels for students who register late and whose demographic information is not contained in the initial pre-ID label shipment are printed locally in the schools.

3. New Enrollees

- Schools enter student information and demographics into the OEAA Secure Site and print scannable label(s) for tests to be taken.
- Contractor(s) supply the blank labels that schools use for local printing of student barcode information that is affixed to machine-scannable answer documents that are returned (see barcode sample, above).

4. Quality Assurance Plan

- Initial Pull:** For students entered into the OEAA Secure Site by the end of the initial pre-ID window, OEAA will provide data to the Contractor for pre-printed barcodes. Prior to production, samples of pre-print processes must be quality-checked for smudging, etc., that could occur in the normal handling process that could prevent accurate reads as part of the image scan process.

- b. Update Pull: OEAA provides data for Contractor to produce Pre-ID/barcode labels for additional students entered into the OEAA Secure Site after the Initial Pull date. Prior to production, samples of Pre-ID/barcode labels must be quality-checked for smudging, etc., that could occur in the normal handling process that could prevent accurate reads as part of the image scan process.
- c. Locally printed Pre-ID barcodes are printed for students entered into the OEAA Secure Site for a test after the Update Pull date. The Contractor must provide specified numbers of blank labels for this purpose.

Bidder's Response to the Requirements described above:

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- b. Michigan Pre-ID for Online Testing using Online Format
 - 1. Initial Pull

Contractor's online test format, referred to as Online Contractors, pull the initial file of pre-identified students using an electronic utility that is preset to pull data according to a pre-established schedule.
 - 2. Update Pull

Online Contractors pull the update file of pre-identified students using an electronic utility that is preset to pull data according to a pre-established schedule.
 - 3. New Enrollee Pulls

During the administration window for a test cycle, the Online Contractor pulls new enrollee information from the OEAA Secure Site.
 - 4. Quality Assurance Plan
 - a. Results of the Pre-ID pulls are analyzed for accuracy and to ensure that the Online Test Delivery System correctly organizes students by test administration groups and proctors for specified test (by program, content, grade level, and class group).
 - b. Update and subsequent pulls are analyzed for accuracy.
 - c. Requirements are gathered and a UAT conducted for this process.

Bidder's Response to the Requirements described above:

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10) Packaging and Distribution

Contractor must package and ship materials by school using quantity information from the OEAA Secure Site. Materials must include documents with pre-id information from the initial and update pulls. These shipments must be scheduled to arrive in the schools by pre-specified dates.

- a. Contractor proposing a print format for test products must incorporate the following customization requirements into standard packaging and distribution processes for work skills implementation activities for the State:
 - 1. Contractor must have the capability of interfacing with the OEAA Secure Site.
 - a. The method used for interfacing is a direct table read (see Section III, 1.3, C.18: Diagram 1.2).

- b. Contractor must identify the method to be used for the interface.
- 2. OEAA Secure Site is the single source for providing contact and shipping information, including:
 - a. School test coordinator information (name, contact info, etc.);
 - b. School “ship to” address, etc.; part of OEAA Secure Site data.
- 3. OEAA Secure Site is the single source for student test registration information, including:
 - a. Student data for producing Pre-ID labels according to State specifications. Information for producing these labels and label sample are provided in Section III, 2,1.3, C, 9: Diagram 1.1.
 - i. Initial pull
 - ii. Update pull
 - iii. New enrollees
 - b. Student accommodated material order information, which is also part of the student Pre-ID data, will be provided.
 - c. Student data are used to determine test material quantities (operational, make-up test forms).
 - d. Additional student orders must be pulled daily for a OEAA-specified period of time in the test window.
- b. Contractor must accept special requests for shipment through OEAA or their call center.
- c. Quality Assurance Plan
 - 1. Contractor(s) must describe existing processes for packaging test materials that ensure consistent and accurate deliveries to schools.
 - 2. Test materials must be received at the school no later than two weeks prior to testing.
 - 3. Contractor(s) must upload tracking information for original shipments and additional orders into the OEAA Secure Site for maximum accessibility to schools and district staff.

Bidder's Response to the Requirements described above:

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11) Online Test Delivery

Contractor's online format for administering test must provide an online test delivery system that adheres to industry best practices, strict security measures, and uses OEAA-approved interfaces for administration and scoring processes (see Section III, 1.3, C.18: Diagram 1.2).

Contractor must indicate how selection and use of the proposed online system address the following:

- a. Test Proctor Access to the Online Testing System
 - 1. Describe test proctor responsibilities for test registration processes.
 - 2. Describe the functionality of tools available to test proctors during the administration process.
 - 3. Describe the methods used to prevent data loss during test administration, such as power outages or loss of internet connectivity.
- b. Directions for Online Administration of work skills tests

1. Describe how standard directions are presented to the user (student and/or teacher) based on the test format of the test(s).
2. Detail options for customizing directions or interface presentation.

Bidder's Response to the Requirements above:

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- c. Student Access to the Online Testing System
 1. Describe how the online testing system interface is appropriate for target population
 2. Describe how accessibility options meet the accommodation requirements for students with disabilities and English learners.
 3. Describe security, including limit of computer functionality during testing.
- d. Student Information for Tested Roster Preparation
 1. The Online Contractor exports files of students who have completed their assigned test(s) using a direct database write, to the OEAA Secure Site (see Section III, 1.3, C.18: Diagram 1.2).
 2. When groups of schools are completed, school assessment coordinators will be able to log onto the OEAA Secure Site to review all student answer documents that have been scanned and identify any possible issues, such as a missing test.

Bidder's Response to the Requirements described above:

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12) Online Scoring

- a. The Contractor must score all tests administered online.
 1. Describe
 - a. translating machine scorable student responses into right/wrong answers or partial credit.
 - b. exporting images of constructed-response (CR) items for AI and/or hand scoring; If an on-screen scoring process is available for CR items, describe this process in detail including how it ensures that student responses are scored anonymously and allows for distributed scoring.
 - c. scoring spoken response items.
 2. The system must be capable of translating answer options to a score for each item (e.g. 0/1).
 3. The system must be capable of updating records by adding scores from the constructed-response items after they are hand scored.
- b. If OEAA opts to include any items from the work skills test in the MME subject scores, then the Contractor must provide OEAA with the student score responses for those selected items
- c. Quality Assurance Plan
 1. All items must be scored accurately, efficiently, and reliably. Scoring information must be made available both to the State Program Manager and to independent evaluators or auditors as required, if the State opts to include selected items in the MME subject scores.

2. Online Contractor must provide a description of the scoring process, specifying the quality control measures for scoring, verification of the scoring program, combining and aggregating multiple-choice response scores with constructed response scores at the school, district, ISD, and State levels.

Bidder's Response to the Requirements described above:

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13) Test Administration Communication and Security

Contractor must provide a variety of communication processes during testing, including call centers with trained staff, test monitors for targeted monitoring visits, and information about possible test administration irregularities according to pre-established timelines. Contractor must be prepared to tailor communication to Michigan schools and communications may require approval from MDE staff before being communicated to the schools.

- a. Communication, Monitoring, and Security Processes for Stand-alone Test Administration Contractor must describe processes that will be used for communicating with schools during stand-alone test administration windows, including:
 1. Description of communication procedures to be used (call center, email, etc.);
 2. Description of security processes to be used during Michigan test windows;
 3. Samples of existing communication and security materials and processes used; and
 4. If response to "c" differs from responses to "a" and "b", an explanation is provided.
- b. Contractor must describe all monitoring procedures that will be used for stand-alone tests during the test window.
- c. OEAA reserves the right to have MDE staff conduct test administration observations and monitoring as needed.
 1. Number of contractor-initiated monitoring visits during a test administration window.
 2. Description of contractor training program provided to staff for monitoring administration of all stand-alone tests proposed for this Contract.
- d. Contractor must describe procedures that will be used for possible security breaches for administration of stand-alone tests, which must include, but is not limited to the following:
 1. Signed OEAA security compliance agreement forms from all school test coordinators, teachers, etc. who are involved with testing or secure student information.
 2. Collection process(es) and mechanism used.
- e. Contractor must describe the QAP that will be used to monitor stand-alone testing, including, but not limited to, the following:
 1. Summary of communication related to possible irregularities by school and test cycle.
 2. Description of Contractor-initiated processes used to detect possible irregularities.
 3. Electronic archive security compliance agreements for all staff involved with testing to be housed on the OEAA SharePoint site.

- f. QAP for Work Skills Components
 1. A Summary of all communication related to possible testing irregularities and incident reports is provided, including:
 - a. Numbers of calls and other types of communication (calls, email) are identified.
 - b. Summary is provided to OEAA according to pre-established frequency.
 2. A description of Contractor-initiated processes used to detect possible irregularities
 3. Electronic archive of test misadministration or investigation related material stored on the OEAA SharePoint site.
 - a. Searchable by school and test cycle.
 - b. Available for State auditing purposes.

Bidder's Response to the Requirements described above:

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14) Procedures for School Return of Test Materials

All secure print materials for work skills tests must be returned to the appropriate Contractor immediately following each test cycle. Contractor will receive and check-in returned test materials as shipments arrive from the districts and schools. Contractor use of established quality assurance steps to ensure that all materials have been received and accounted for is vital to maintain the integrity of the program.

- a. School Return of Print Test Materials
 1. After testing, scorable and nonscorable materials will be shipped in boxes that are provided by the Contractor.
 2. Contractor(s) must provide return shipping labels assigned for use and tracking by the Contractor(s) and OEAA.
 3. Contractor(s) must pay all return shipping charges.
 4. Schools must be able to track materials shipments; Contractor(s) must provide OEAA with tracking data during and following the shipping window.
- b. Contractor Receipt of Printed Test Materials (Print)
 1. Contractor must scan or identify boxes as they are received in a secure area and notify shipper, school, and OEAA of any missing boxes.
 2. Contractor must open all boxes and determine accuracy of the document counts provided by the schools.
 3. If used and unused materials are shipped together, the Contractor must check the unused (to ensure that used materials have not been intermixed) and notify the school and OEAA.
 4. Used and unused materials containing a security bar code must be scanned for check-in.
 5. For missing Pre-ID/barcode labels, Contractor(s) must:
 - a. Provide a listing of schools and number of students with missing bar code labels.
 - b. Notify schools of the number of answer documents missing bar code labels.
 6. QAP for Missing Materials

- a. Contractor(s) must provide a process for timely identification of missing materials and provide a report back to schools requesting return of any missing materials and/or explanation of such.
 - b. Contractor(s) must provide regular reports to OEAA of schools with missing materials and the status of responses from schools. Reports will be stored on the OEAA SharePoint site.
 - c. Contractor(s) must provide for follow-up contacts with schools and districts via email and by phone, if necessary, to elicit a response.
7. QAP for Online Assessments
- a. Contractor must provide a process for ensuring that all on-line assessments are accounted for.
 - b. Contractor must provide a process for ensuring that all on-line assessments are processed correctly.

Bidder's Response to the Requirements described above:

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15) Scanning and Scoring Print Documents Contractor offering print materials must score all machine-scannable student answer documents using a scan and scoring system that meets the following requirements:

Machine scanning processes for print materials include the following:

- a. Translates all scanned bubbles, such as multiple-choice (MC) responses, into item responses chosen (e.g. 1, 2, 3, 4 or A, B, C, D) which is listed on the scanned file and then right/wrong (e.g. 0,1,1,0);
- b. Exports any constructed-response (CR) items, such as writing, for Artificial Intelligence (AI) and/or hand-scoring.
- c. Capable of updating records by adding scores from the constructed-response items after they are AI or hand-scored.
- d. Identifies answer documents without a Pre-ID barcode as an exception, using pre-established research processes for resolution.
- e. Direct table read or web-based interface (See Section III, 1.3, C.18: Diagram 1.2) for OEAA Secure Site import/ export processes for file data exchanges;
 - 1. Updated Pre-ID files are regularly imported from the OEAA Secure Site to assist with Pre-ID/barcode scan research.
 - 2. Once scanning for groups of schools is completed, scan files are exported to the OEAA Secure Site for hosting, demographic analysis and student-based research.
- f. Provide answer document images and scanned file data for Tested Roster (See Section III. 2.1.3., C, 18: Technical Requirements);
 - 1. Contractor(s) provide complete information on all scanned answer documents to OEAA, via a direct database write to OEAA (See Section III, 1.3, C.18: Diagram 1.2, Interface 6) before tested roster opens.
 - 2. Tested Roster will be available on the OEAA Secure Site for schools to review and identify any possible issues, such as a missing test.

3. OEAA will review possible issues, such as a possible missing answer document, using the test images of the paper-and-pencil answer documents, which will be made available to OEAA prior to the opening of the tested roster.
 4. During the tested roster window, which opens after test administration, the Print Contractor must pull issues data from the OEAA Secure Site.
 5. The Print Contractor must research missing students and missing tests. The Contractor must scan and score found answer documents and correct the student data file for found students and/or tests and provide OEAA with the corrected student data file.
 6. The Print Contractor must include updated demographic information from the Michigan School Data System (MSDS) in the corrected student data file provided by OEAA. (See Section III, 1.3, C.18: Diagram 1.2.)
- g. Development Quality Assurance Plan
1. All items must be scored accurately, efficiently, and reliably. All scoring information must be made available both to the OEAA Program Manager and to independent evaluators or auditors as required.
 2. Image capture system must accurately scan all 6x6 and 6x5 inch bubbles on answer documents and answer booklets
 3. The image capture must accurately include a student bar code (over-printed, sprayed on, or pre-printed label). (See Section 1.3, C.9: Pre-Identification.)
 4. Contractor(s) must provide a description of the scoring process(es), specifying the quality control measures for scoring, frequency of providing scan and score files linked to images and handling of all items including, but not limited to, verification of the scoring program, editing and resolution procedures for questionable answer documents (e.g., with multiple marks, poor erasures), editing processes and combining and aggregating multiple-choice response scores with constructed response scores at the school, district, county, and State levels.
 5. All scan, score and QAP plans must be pre-approved by OEAA.
 6. If the State opts to include items from the work skills assessment, Scoring UATs must be held at the Contractor's scoring site. OEAA will provide staff members for each UAT, any necessary travel and lodging expense to be paid for by Contractor. See Section 5.2.B.

Bidder's Response to the Requirements described above:

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16) Technical Report

Contractor must provide all technical information about all procedures used to produce Michigan student score files including common core alignment processes, implementation monitoring, forensic analysis, scanning, scoring (scaling, equating, etc.) that are used to ensure that reported scores are technically sound. QAPs, and processes used (requirements gathering, UAT, etc.) must also be included. OEAA requires that the technical report be specific to Michigan students and contain only Michigan student data, with some exceptions noted where national data might be relevant and useful in illustrative situations.

Bidder's Response to the Requirements described above:

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17) Document Retention and Storage

Contractor must store all print and electronic documents related to the work skills tests for the duration of this Contract, or until written permission is received by the Program Manager to recycle, etc., using secure procedures to protect FERPA-related student information. OEAA must have access to all stored documents and files at any point during the Contract or within agreed-upon retention guidelines.

- a. The Work Skills test using machine scannable answer document format must provide the following:
 1. Physical Materials
 - a. The Print Contractor must retain a cycle's used and unused secure physical materials for two full years.
 - b. The Print Contractor must retain scanned documents until written permission is received by the OEAA Project Manager to recycle, using secure procedures to protect FERPA-related student information.
 - c. Meeting documents, such as sign-in sheets
 2. Electronic Files, etc.
 - a. Scanned Images
 - b. Scanned, scored files
 - c. Import, export files

Bidder's Response to the Requirements described above:

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- b. Work skills test
 1. Electronic Files
 - a. The Online Contractor must retain all student testing data in a highly secure location with off-site backup for the life of the Contract.
 - b. Full archives of student testing data must be made available to OEAA via an open published API.
 - c. No student testing data will be deleted without written permission from the OEAA Project Manager.
 - d. Stored records, in combination with existing and archive test booklets as well as online test administrations, must make it possible to recreate student test events in the event of appeal or other action requiring proof of testing if the State opts to use items from off the shelf products to contribute toward MME subject area scores.

Bidder's Response to the Requirements described above:

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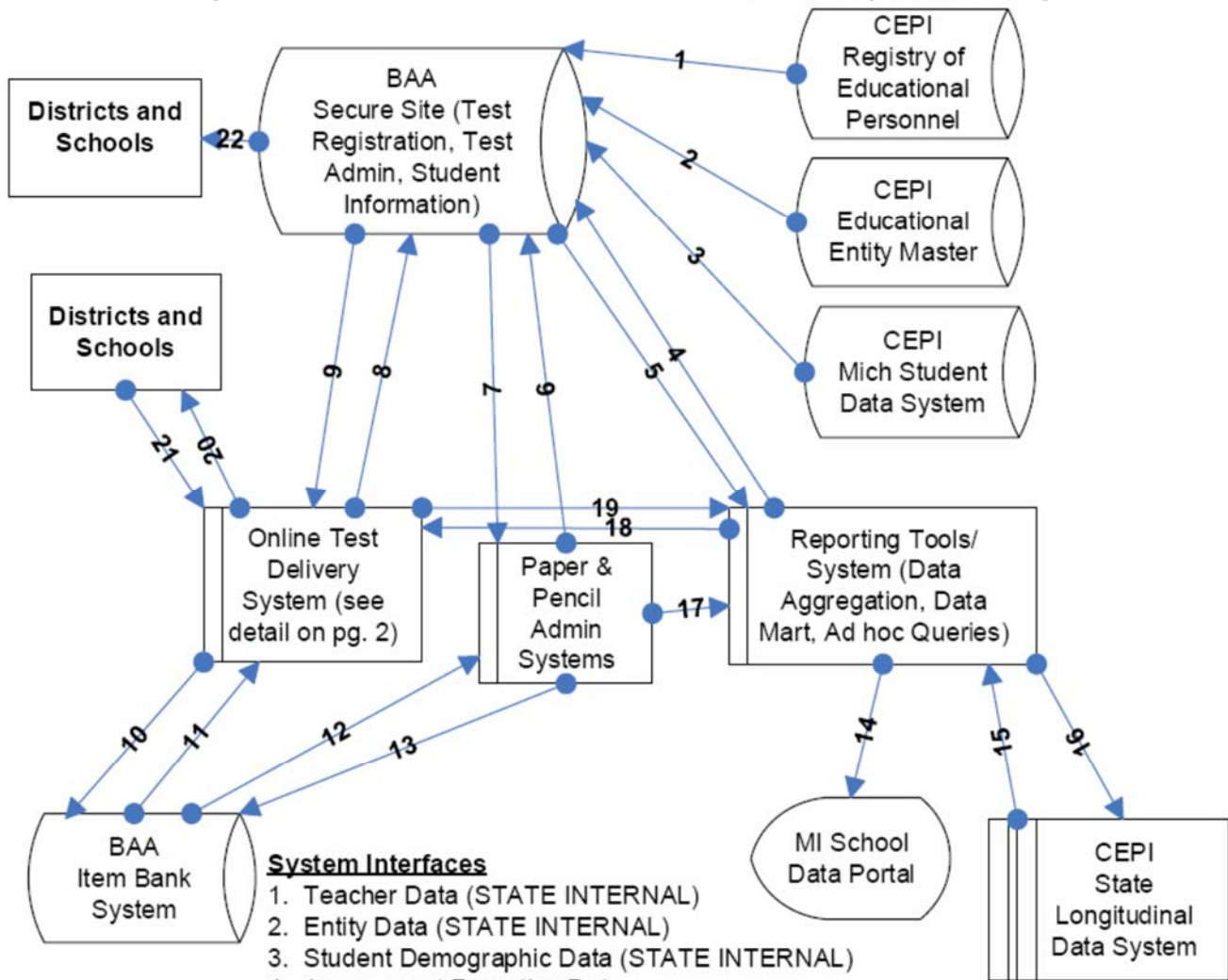
18) Technical Requirements, including Interfaces

- a. General Information

1. Contractor must provide all electronic Contract documentation using the Microsoft Office Suite (v2016) unless otherwise agreed to by the Program Manager.
 2. All software used must be compatible with MDE software for products. Contractor(s) must have the capability of interfacing with the OEAA Secure Site via direct table read/write. System must be able to interface with the OEAA Secure Site to read or write the following information: (The State's systems are built on Microsoft .net)
 - a. Test Registration (Pre-ID) information — The OEAA Secure Site is where tests are registered. This registration information must be obtained directly from the OEAA Secure Site via direct table read. For more information on Pre-ID, see "Pre-Identification of Students" above.
 - b. Student Testing Status (Tested Roster) data — The OEAA Secure Site provides a process for schools and districts to verify that the student enrollment is correct, students either not tested or unable to test is correct and that evidence is received confirming that all students (scheduled to test) took the test and answer documents were received for scanning.
- b. **Tested Roster**
- The verification of answer documents is commonly referred to as "Tested Roster", which is described as follows:
1. The Contractor must provide information on all scanned answer documents via a direct database write to OEAA before tested roster opens.
 2. Tested Roster must be available on the OEAA Secure Site for schools to review and identify any possible issues, such as a missing test.
 3. OEAA will review possible issues, such as a possible missing answer document, using the test images of the paper-and-pencil answer documents, which must be made available to OEAA prior to the opening of the tested roster.
 4. During the tested roster window, which opens after test administration, the Contractor must pull issues data from the OEAA Secure Site.
 5. The Contractor must research missing students and missing tests. The Contractor must scan and score found answer documents and correct the student data file for found students and/or tests and provide OEAA with the corrected student data file.
- c. **Student Test Results Data** – The Contractor must populate the OEAA Secure Site with student test results using a direct table write.
1. Work skills credentials
 2. Item level student score responses, if the state opts to include items toward the MME subject scores
- d. **OEAA System Interfaces**
1. All Contractor system to State system interfaces must utilize direct table reads/writes via a VPN connection (supporting Microsoft SQL Server 2008 and above).
 2. Security and authentication software for the OEAA Secure Site is a State-created and maintained solution called MEIS.
 3. Diagram 1.2 shows the OEAA System Interfaces. A description of each interface follows the diagram.

Diagram 1.2 Description of OEAA System Interfaces:

BAA System Interfaces – For Information Purposes Only



System Interfaces

1. Teacher Data (STATE INTERNAL)
2. Entity Data (STATE INTERNAL)
3. Student Demographic Data (STATE INTERNAL)
4. Assessment Reporting Data
5. Student/Teacher/Class Group Data and data requests
6. Tested Roster/Answer Doc Images/Material Order/Shipping Data
7. Student Pre-id/Material Order/Roster Entity Data
8. Student Testing status Data
9. Student/Roster/Test Info/Entity Data
10. Item usage statistics (Raw Data)
11. Items/Test Maps Data
12. Items/Test Maps Data
13. Item usage statistics (Raw Data)
14. Aggregated Results
15. Historical Student Results
16. Student and Aggregated Results
17. Student Answers and Results
18. Historical Student Results
19. Student Answers and Results
20. Online test items
21. Student Responses
22. Report data

BAA Item Bank
Includes:
- Item Authoring
- Item Bank
- Test Authoring

1. Teacher Data (STATE INTERNAL)

Teacher data from the Registry of Educational Personnel (REP) are accessed for assessment purposes in the OEAA Secure Site.

2. Entity Data (STATE INTERNAL)

Entity (School, District, and Intermediate School District (ISD) data from the Educational Entity Master (EEM) are accessed for assessment purposes in the OEAA Secure Site.

3. Student Demographic Data (STATE INTERNAL)

Student demographic data from the Michigan Student Data System (MSDS) are accessed for assessment purposes in the OEAA Secure Site.

4. Assessment Reporting Data

Reporting data are accessed by the OEAA Secure Site in the Reporting System via a direct table read. The reporting system must support both static report displays and dynamic customized reports based on data-mining tools. Interpretive guides for summative tests provide graphic displays of data and text with focus on the particular needs of students, parents, teachers, and school and district administrators. They must be tailored to each major user group and allow for varying degrees of customization, depending on the needs of the particular user group. Access to student data and reporting tools must be credential-dependent to ensure student privacy and protect the security of individual student results. The results must be of immediate value to students, parents, teachers, and school and district administrators. Through credential-based access to the reporting suite, stakeholders can view and generate meaningful interim assessment reports appropriate to their level of access.

5. Student/Teacher/Class Group Data

- a. Teacher and student roster data will also be accessed by the reporting system from the OEAA Secure Site for reporting purposes.
- b. Data requests for ad hoc queries will be submitted through the OEAA Secure Site to the reporting system.

6. Tested Roster/Material Order/Shipping Data

- a. Contractor must send back packing list, shipment information and a link to the shipment tracking website.
- b. Tested Roster overview: Tested Roster Processing is the method by which schools view scanned data from student answer documents and verify the demographic information. The data sent to the OEAA Tested Roster process by the assessment contractor do not include answer documents returned with non-scorable materials (such as secure but unused answer documents that are required to be returned, scanned, and accounted for but are not processed further). If a school finds any issue with the posted data, it alerts OEAA, which in turn works with the assessment contractor to correct the data. Tested Roster Processing includes the following processes:
 - 1) **No Bar Code processing:** The answer documents that were scanned with no bar code or invalid bar codes go through No Bar Code processing. If a bar code for the document can be located or created by OEAA, the document is sent for No Bar Code processing. If the document cannot be assigned a bar code due to insufficient data, it is not included in further processing.
 - 2) **Duplicate Bar Code processing:** Answer documents with duplicate bar codes can exist for the same student or for different students. The assessment contractor attempts to resolve as many duplicate bar codes as possible before sending any to OEAA.
 - 3) **Out of Level processing:** A student may be administered a test in a grade level that does not match his enrolled grade. The student's documents are sent to the Tested Roster process and a new barcode may be assigned.
 - 4) **Tested Roster processing.**
 - a) All answer documents that are valid for Tested Roster, including those that received a valid bar code as the result of bar code processing, are included in the Tested Roster processing.

- b) A valid answer document has at least one multiple-choice item bubbled or one constructed response in the answer document.
 - c) A blank document is not sent to the bar code or Tested Roster processes.
 - An answer document with no apparent bubbled responses to test questions, returned with scorable materials, is sent to data correction to confirm that all positions for bubbled and written answers are blank.
 - The presence of demographic data, including a student bar code, has no bearing on this determination. Upon such confirmation, this document is marked as blank and is not processed further, including the processes in this document.
- c. Barcode handling process

Table 1.2 Barcode Handling Process

Scenario	Handling Instructions
No barcode-no required values	Barcode cannot be assigned by OEAA due to insufficient data. The document is not sent and not processed further.
No barcode – partial required values	<p>If the district-school code combination cannot be resolved. The record is not sent and the document is not processed further.</p> <p>If the district code and school code exist, but the grade, last name, first name, or birth date are missing the record is sent but OEAA may not be able to assign a barcode.</p> <p>If OEAA cannot locate or create a barcode, the document remains as is until the school calls about it. The document is not processed further until it gets a valid barcode.</p> <p>If successful, the new barcode is retrieved and assigned to the answer document.</p>
No barcode – all required values	<p>The record is sent (including birth date if valid) and OEAA attempts to locate or create a barcode.</p> <p>If this cannot be done, the document is not processed further.</p> <p>If successful, the new barcode is retrieved and assigned to the answer document.</p>
Invalid barcode – partial required values	<p>If the district-school code combination cannot be resolved the record is not sent and the document is not processed further.</p> <p>If the district code and school code exist but the grade, last name, first name, or birth date are missing, the record is sent but OEAA may not be able to assign a barcode.</p> <p>If OEAA cannot locate or create a barcode, the document must be reviewed and the school must be contacted to obtain more information about the document. The document is not processed further until it gets a valid barcode.</p>
Invalid barcode – all required values	<p>The record is sent (including birth date if valid) and OEAA attempts to locate or create a barcode.</p> <p>If this cannot be done, the document is not processed further.</p> <p>If successful, the new barcode is retrieved and assigned to the answer document.</p>

- d. **Tested Roster Issues:** As the districts identify issues with scanned data, these issues are recorded and reviewed by the OEAA business office. The following issues can be created by the Districts/Schools.
- 1) **Combine:** If a District/School determines that there are student tests on their roster that should be combined to one student, they submit a combine issue.
 - a) The District/School chooses one of the student test records to be the Primary Test Record and the records they choose to be combined update the primary test record chosen.
 - b) If the combine is accepted by OEAA, the records are combined on the OEAA system.
 - c) The primary record is updated with the test information from the other records and the other records are unassigned from the test cycle.
 - d) Tests of the same subject cannot be combined.
 - e) Tests of different grades cannot be combined.
 - 2) **Missing Test:** If a District/School determines that there are student test records on their roster that are missing for a student, they submit a missing test issue for the content area that is missing.
 - a) If a missing test issue is approved by OEAA, the Contractor pulls the missing test information from the OEAA system.
 - b) If the Contractor finds the test for the student, and if the document qualifies for Tested Roster processing, the data from the scanned document are loaded to the OEAA database.
 - c) The issue created for the missing test is flagged as resolved whenever the data for the test are processed by OEAA.
 - d) If the Contractor finds the missing test and it is blank, OEAA is notified.
 - OEAA marks the ticket as resolved with a comment that the test found was a blank.
 - OEAA updates student test records when appropriate.
 - 3) **Missing Student:** If a District/School determines that there are students who are missing on their roster, they submit a missing student issue for the student who is missing.
 - a) If a missing student issue is approved by OEAA, the Contractor pulls the missing student information from the OEAA system.
 - b) If the Contractor finds the tests for the student, and if the documents qualify for Tested Roster processing, the data from the scanned documents are loaded to the OEAA database.
 - c) The issue created for the missing student is flagged as resolved whenever the data for the student are processed by OEAA.
 - d) If the Contractor finds all the tests for the missing student and they are all blank, OEAA is notified. OEAA marks the ticket as resolved. OEAA updates student test records when appropriate.
 - 4) **Move:** If a District/School determines that there are students who are no longer in their district or school, they submit a move issue.
 - a) If a move request is entered by the District/School and approved by OEAA to a school within the requesting District, the test is moved to the new school.
 - b) If a move request is entered by the District/School to move a student out of the district and it is approved by OEAA, the student is moved out of the District and OEAA will assign it to the correct school.

7. Student Pre-ID/Material Order/Roster Entity Data

The Contractor must be able to pull pre-ID data from the OEAA system multiple times via a direct table read.

8. Student Testing Status Data

Data related to student's online testing status are accessed by the OEAA Secure Site.

9. Student Pre-ID/Roster/Test Info/Entity Data

- a. For the online test delivery system, the Contractor must be able to pull pre-ID data at the beginning of the test period and at a minimum on a daily basis throughout the test period.
 - b. The Contractor must use the State's UIC and a barcode generated from the State's Secure Site System in the online test delivery system.
 - c. The Contractor must utilize the grouping of students by the roster data retrieved from the OEAA Secure Site, allowing test proctoring in these groups via the online test delivery system. This grouping is optionally entered in the OEAA Secure Site by districts and schools.
- 10. Item Usage Statistics (Online) – Not applicable to this RFP**
Item usage statistics data are accessed by the OEAA Item Bank System from the Online Test Delivery System.
- 11. Items/Test Maps Data (Online) – Not applicable to this RFP**
Item and test map data are exchanged from the OEAA Item Bank System to the Online Test Delivery System.
- 12. Items/Test Maps Data (Print) – Not applicable to this RFP**
Print Optimized Files (POFs) and Test map data are made available to the Contractor for the paper-and-pencil administration from the OEAA Item Bank System.
- 13. Item Usage Statistics (Print) - Not applicable to this RFP**
Item usage statistics data are accessed by the OEAA Item Bank System from the Online Test Delivery System.
- 14. Aggregated Results**
Assessment results aggregated for public reporting are made available via an extraction/transform/load process to the MI School Data Web Portal.
- 15. Historical Student Results**
Longitudinally connected student assessment data are made available for queries from the OEAA Secure Site.
- 16. Student and Aggregated Results**
Student-level and aggregated assessment data are made available via an extraction/transform/load process to the State Longitudinal Data System (SLDS).
- 17. Student Answers and Results (Print) – Not applicable to this RFP**
Student responses via scanned paper answer documents are sent to the reporting system.
- 18. Historical Student Results**
Longitudinally connected student assessment data are made available for queries from the Online Test Delivery System.
- 19. Student Answers and Results (Online) – Not applicable to this RFP**
Student responses via the Online Test Delivery System are sent to the reporting system.
- 20. Online test items**
Schools and districts utilize the Online Test Delivery System to administer tests to students.
- 21. Student Responses (Online) – applicable only if the State elects to have selected items from the work skills test contribute to the MME subject scores**
Student responses via the Online Test Delivery System are entered for scoring and reporting.
- 22. Report data**
Student-level and school and district aggregated results are available via the OEAA Secure Site for teachers and administrators appropriate to their level of access.

Bidder's Response to the Requirements described above:

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19) Overview of Technical Priorities for Online Testing

Technical Priorities for an online testing system include the following:

- a. Highly available during the school year and school hours and Scalable System. The Online Test Delivery System must support high usages availability and scalability and

- perform under periods of high usage of concurrent users and high processing loads (See Section 1.7 User Type Capacity).
- b. System and Data Recoverability. The Online Test Delivery System will need the ability to recover from a hardware or application failure. It must have built-in redundancy and fail-over architecture to ensure seamless system recovery.
 - c. Data Integrity. The Online Test Delivery System must provide end-to-end data protections to ensure no data are lost or corrupted during processing, storage, and transportation between applications and interfaces.
 - d. Security. The Online Test Delivery System must maintain the highest level of security in order to safeguard the confidentiality of items, student information, and assessment results. The required security level is comparable to that required by financial institutions to prevent security breaches.
 - e. System Flexibility. The Online Test Delivery System will be interfacing with several existing systems within MDE and CEPI. The system must be built with enough flexibility so that it has the capability to interface with other systems in the future. The effective use of standards, business rules, security protocols, and integration architectures will be critical to enabling this level of interoperability.
 - f. Data Management. The Reporting System must support the seamless and secure sharing of student item data and test results. This includes both the receipt of student data from the State systems and the export of student results back to the State systems.

Bidder's Response to the Requirements described above:

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20) Technical Requirements for Online Testing

Bidder must use the directions below to indicate how their proposed solution complies with each requirement in the online test requirements table that follows:

- a. Use the top left box to identify the test and the first year of implementation for this Contract (Spring 2021, 2022 or 2023).
- b. Check the box that applies to each requirement listed in the column labeled "Yes" or "No"
 1. **"Yes"** is defined as: The Bidder's solution currently complies with all aspects of the requirement and is a standard feature. In the comment box, the Bidder must describe how its proposed solution complies with the requirement. If applicable, screenshots may be included as an appendix to show this functionality.
 2. **"No"** is defined as: The Bidder's proposed solution does not comply with all aspects of the requirement.
- c. Fill in the column labeled Requirement Response (REQ Response) for each requirement with a 1, 2, 3 or 4 - A, B, C, or D, as defined below.
 1. Currently provided as a standard feature.
 2. Not currently provided but is a planned enhancement and will be added at no additional cost by the date specified in the "Comments" box, and will be supported in future releases. OEAA reserves the right to reject the Bidder's proposed date and consider the solution not in compliance.

3. Not currently provided but will be added at the additional cost detailed in the cost proposal and will be supported in future releases at no additional cost. OEAA reserves the right to reject the Bidder's proposed date and consider the solution not in compliance.
 4. Not supportable
- d. In the comment box, the Bidder must provide any additional information related to the solution.

The Bidder's response to each requirement must contain adequate information for OEAA to evaluate without referencing responses to other requirements.

	A	B	C	D	
ID #	Online Test: _____ First Implementation Year _____	YES	NO	REQ. RESPONSE (1, 2, 3, 4)	Comments
	General				
1.	System must be able to interface with the OEAA Secure Site system: Test Registration information (pull) and Student Testing Status data (push).				
2.	System must be able to import test proctor and other school administrator accounts.				
3.	System must be able to automate, using direct table reads via a VPN connection, API, or batch process, the export of all raw and computed assessment data from the Test Delivery System to OEAA for analysis and reporting.				
	Test Delivery System				
4.	System must be able to check student computers to ensure that they have the components necessary to operate the test.				
5.	System must require minimal work for setting up the administration of a test on the testing devices. Please describe the installation process.				
6.	System must have a secure method for students to log in and begin a test session. If the system uses "test tickets" that must be printed for each student, please describe in detail.				
7.	System must have the ability to deliver the test securely to "locked-down" student workstations / devices. Describe the extent to which the proposed solution "locks down" the student device to disable browser navigation.				
8.	System must prevent printing, screen captures, saving to HTML, and viewing of HTML source during assessment session.				
9.	System must allow students to review their answers for some sections or sets of questions before moving on to the next section or completing the exam.				
10.	System allows test administrators to print items, stimuli, and necessary resources to support system accessibility requirements, with appropriate security procedures.				

	A	B	C	D	
ID #	Online Test: _____ First Implementation Year _____	YES	NO	REQ. RESPONSE (1, 2, 3, 4)	Comments
11.	System provides the student with a summary screen prior to submission that visually alerts the student of any unanswered items on a fixed-form assessment.				
12.	System provides an option that allows a student to go back and review any item and change their answers prior to submitting.				
	Student Accommodations				
13.	System must provide accessibility tools for students to use during an assessment based on the student's personal needs profile (PNP) data.				
14.	American Sign Language/ Exact English				
15.	Magnification Tool (without distorting images)				
16.	Masking				
17.	Guided Line Reader				
18.	Read Aloud/Spanish and Arabic – both human voice and computer-generated. (Specify text-to-speech engine used)				
19.	Refreshable Braille				
20.	Braille Integrated Ruler				
21.	Vary Screen Color/Contrast				
	Student Tools				
22.	System must provide tools for students to use during an assessment that are enabled based on item characteristics.				
23.	System provides the ability to disable functionality for a specific test. (e.g. calculator, ruler, magnifier, etc.)				
24.	Answer Eliminator				
25.	Dictionary/Glossary/ Thesaurus				
26.	Line Guide				
27.	Calculator(s)				
28.	Read Aloud/English				
29.	Highlighter				
30.	Protractor				
31.	Ruler				
32.	Strike-through				
	Systems Architecture				
33.	The proposed system must operate efficiently on the following end-user operating systems:				
34.	- Windows 10, current and all Long-Term Servicing Channels				
35.	- macOS 10.x and above				

	A	B	C	D	
ID #	Online Test: _____ First Implementation Year _____	YES	NO	REQ. RESPONSE (1, 2, 3, 4)	Comments
36.	- iPadOS 13.x and above (iPads)				
37.	- iOS 13.x and above (older iPads, if supported)				
38.	- Chrome OS 81 and above (Chromebooks)				
39.	- Ubuntu 9 and above				
40.	The proposed system must support all versions of the operating system supported by the vendor, as well as ensuring the system continues to operate as expected under new releases. The school user environment may not update operating systems during the school year (from a summer re-image) or may update as soon as a new release is available. The school user environment has widely varying hardware, usually with low-end specifications.				
41.	The proposed system must operate efficiently within a student screen resolution of 1024x768 with minimal horizontal scrolling. Larger resolutions must not change how the test items are rendered (e.g. image sizes are not relative to the screen resolution).				
42.	The proposed system must provide data privacy safeguards and be fully compliant with FERPA and the State of Michigan's standards				
43.	System provides secure access control based upon single unique user login.				
44.	The system provides varying levels of access within the application (Role-based access).				
45.	System must encrypt passwords when they are routed over the network.				
46.	System must store passwords in encrypted State.				
47.	System must support secure socket delivery such as SSL using industry standard encryption levels.				

D. Standard Setting

Any standard-setting work that may be required for MME will be completed by the Contractor that was recently awarded Standard Setting activities for all OEAA assessments, including MME.

The Standard-setting Contractor will also be responsible for recruitment of participants, logistics, and preparation of standard setting materials and documentation of the proceedings. OEAA Psychometric staff will specify the appropriate methodology for the proceedings and will provide oversight to the process, analysis, and production of reports.

If the state elects to select items from the work skills test to contribute toward the MME subject scores, any contracts awarded based on bids responsive to this RFP must cooperate with the standard setting Contractor to provide all necessary materials, data, and collaboration to facilitate standard setting.

Bidder's Response much acknowledge understanding of the above:

E. Program Management

The Bidder must provide a description of how Program Management will be executed and account for the travel of project staff for meetings for both MDE staff as well as Contractor staff to attend meetings, trainings, etc.

Bidder's Response much acknowledge understanding of the above:

1.4. Transition

The Contractor must implement transition activities into the Contract services seamlessly. Transition activities should not take more than 30 days.

Bidder's Response must include what transition activities would take place for a successful transition into a new Contract:

1.5. Training

The Contractor must provide the following training at no cost to the State:

A. MDOC

- 1) The Contractor must provide online training in test administration and online/technical assistance for MDOC at the start of the Contract and for each new proctor as needed during the business hours of 7:00 AM ET – 7:00 PM ET, Monday through Friday.

Bidder's Response describing the online training in this proposal:

- 2) The Contractor must provide annual technical training for administrative staff to ensure all rules and regulations are current to administer the Career Readiness Test within the prison environment, if needed.

Bidder's Response describing the online technical training in this proposal:

B. MDE

1) Training of Test Administrators and Technology Coordinators

For each MME test cycle, Contractor must work with OEAA staff to develop plans and related materials for training high school assessments coordinators, test administrators, and proctors for each MME test cycle. Training District Technology Coordinators to successfully implement the online test delivery software is also required.

- a. Training Plans
 1. Training plans for spring 2021 MME cycle will occur no later than four weeks after the work skills assessment Contractor starts;
 2. Training plans for subsequent years begin in June of the year prior.
- b. Contractor representatives must attend each training session to answer questions. (Live and archived video casts for conferences).
- c. Contractor will be responsible for providing all training necessary for the effective implementation, administration, and interpretation of the work skills tests, which will include training school and district staff to:
 1. Administer the work skills components of the MME to every student who is eligible to take the test.
 2. Facilitate the use of school-identified accommodations for student test-takers by utilizing the OEAA Secure Site for the following:
 - a) Identifying and documenting accommodated test material requirements by student.
 - b) Documenting other accommodation requirements by student.
 3. Ensure that all administration procedures are followed in a reliable, consistent manner.
 4. Understand all scoring processes for the work skills test.
 5. Obtain reports, analyze data, monitor progress over time, and use data to reflect upon and adjust curriculum and teaching methods; and
 6. Use work skills results to communicate with parents.
- d. OEAA staff will present aspects of planning and administering the work skills test implementation activities that are standard for all statewide assessments.
 1. Training is provided as a workshop in a live video or webcast.
 2. Target audience for training is School Assessment Coordinators, Teachers and Test Administrators.
 3. Initial training videos will be recorded for subsequent workshops with Michigan Assessment Coordinators and Test Administrators.
 4. Contractor will participate in an on-site New Coordinator Training Workshop held annually at Michigan Student Testing Conference (MSTC)
- e. Contractor must provide supporting training materials for inclusion in the training packets, including test administration manuals and sample answer documents.
- f. A draft of the training presentations must be submitted to OEAA for review and approval, no less than 14 days prior to the training workshop.

Bidder's Response to the Requirements described above including explaining its training capabilities and any training that is included in its proposal.:

The Contractor must provide documentation and training materials.

Bidder's Response must include sample training documentation materials:

1.6 Specific Standards

IT Specific Standards listed below may only be applicable if the Bidder is offering an online assessment format. If the Bidder is not offering an online assessment format, the Bidder should respond with "Not Applicable".

A. IT Policies, Standards and Procedures (PSP)

Contractors are advised that the State has methods, policies, standards and procedures that have been developed over the years. Contractors are expected to provide proposals that conform to State IT policies and standards. All services and products provided as a result of this Contract must comply with all applicable State IT policies and standards. Contractor is required to review all applicable links provided below and state compliance in their response.

Public IT Policies, Standards and Procedures (PSP):

https://www.michigan.gov/dtmb/0,5552,7-358-82547_56579_56755---,00.html

Bidder's Response to the Requirements described above:

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B. Secure Application Development Life Cycle (SADLC)

Contractor is required to meet the States Secure Application Development Life Cycle requirements that include:

1) Application Scanning

Contractor is required to grant the right to the State to scan either the application code or a deployed version of the solution; or in lieu of the State performing a scan, Contractor will provide the State a vulnerabilities assessment after Contractor has used a State approved application scanning tool. These scans must be completed and provided to the State on a regular basis or at least for each major release.

For COTS or Contractor owned applications, Contractor, at its sole expense, must provide resources to complete the scanning and to complete the analysis, remediation and validation of vulnerabilities identified by the scan as required by the State Secure Web Application Standards.

Application scanning and remediation must include the following types of scans and activities

- Dynamic Application Security Testing (DAST) - Scanning interactive application for vulnerabilities, analysis, remediation and validation (May include IAST)
- Static Application Security Testing (SAST) - Scanning source code for vulnerabilities, analysis, remediation and validation

Bidder's Response:

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2) Infrastructure Scanning

A Contractor providing Hosted Services must scan the infrastructure using an approved scanning tool (Qualys, Tenable, or other PCI Approved Vulnerability Scanning Tool) at least once every 30 days and provide the scan's assessment to the State in a format that can be uploaded by the State and used to track the remediation. Remediation time frame requirements are documented in SOM PSP's.

Bidder's Response:

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C. Acceptable Use Policy

To the extent that Contractor has access to the State's computer system, Contractor must comply with the State's Acceptable Use Policy, see https://www.michigan.gov/documents/dtmb/1340.00.01_Acceptable_Use_of_Information_Technology_Standard_458958_7.pdf. All Contractor Personnel will be required, in writing, to agree to the State's Acceptable Use Policy before accessing the State's system. The State reserves the right to terminate Contractor's access to the State's system if a violation occurs.

Bidder's Response:

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D. Look and Feel Standard

All software items provided by the Contractor must adhere to the State of Michigan Application/Site Standards which can be found at www.michigan.gov/standards.

Bidder's Response:

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E. Mobile Responsiveness

The Contractor's Solution must utilize responsive design practices to ensure the application is accessible via a mobile device.

[Bidders must provide a list of all mobile devices that are compatible with the Solution. Additionally, Bidder must provide list of features that can be performed via a mobile device.](#)

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F. ADA Compliance

The State is required to comply with the Americans with Disabilities Act of 1990 (ADA) and has adopted standards and procedures regarding accessibility requirements for websites and software applications. All websites, applications, software, and associated content and documentation provided by the Contractor as part of the Solution must comply with Level AA of the World Wide Web Consortium (W3C) Web Content Accessibility Guidelines (WCAG) 2.0.

Contractor must provide a description of conformance with WCAG 2.0 Level AA specifications by providing a completed Product Accessibility Template (PAT) for the Solution. If the Solution is comprised of multiple products, a PAT must be provided for each product. In addition to PATs, Contractors may include a verification of conformance certified by an industry-recognized third-party. If the Contractor is including any third-party products in the Solution, Contractor must obtain and provide the third-party PATs as well.

Each PAT must state exactly how the product meets the specifications. All "Not Applicable" (N/A) responses must be fully explained. Contractor must address each standard individually and with specificity; and clarify whether conformance is achieved throughout the entire product (for example - user functionality, administrator functionality, and reporting), or only in limited areas. A description of the evaluation methods used to support WCAG 2.0 Level AA conformance claims, including, if applicable, any third-party testing, must be provided. For each product that does not fully conform to WCAG 2.0 Level AA, Contractor must provide detailed information regarding the plans to achieve conformance, including timelines.

[Bidder must acknowledge their agreement with this section and provide details for how they will meet the requirements.](#)

Bidder's Response to the Requirements described above:

G. SOM Digital Standards

All software items provided by the Contractor must adhere to the State of Michigan Application/Site Standards which can be found at www.michigan.gov/standards.

Bidder's Response to the Requirements described above:

1.7 User Type and Capacity

Agency	Type of User	Access Type	Number of Users	Number of Concurrent Users
MDOC	State	Admin	4	4
MDE	State	Admin	4	4
	Public	Test Taker	Potentially, all 11 th graders or approx. 100,000	Dependent on assessment administration window as determined by Contractor.

Contractor must be able to meet the expected number of concurrent Users.

Bidder must explain how it will be able to support the expected number of concurrent Users. Bidder must also explain whether the Solution can scale up or down without affecting performance.

Bidder must provide details regarding latency response time for (i.e., Generate Page Load, standardized reporting, ad hoc reporting). The Bidder must identify what network connectivity or equipment will the State be required to have to meet the expected latency response time?

1.8 End-User Operating Environment

Bidder must:

- Describe any State system access requirements that are necessary for the Bidder to perform its obligations on a timely basis, including but not limited to, physical or remote access to State networks, servers, or individual workstations.

Bidder's Response to the Requirements described above:

- Describe if it can comply with the current environment and how it intends to comply with any future changes to the user environment. And if not, describe what end user operating environment its solution supports.

Bidder's Response to the Requirements described above:

- Describe if it can support the original environment throughout the term of the contract.

Bidder's Response to the Requirements described above:

- Describe how it communicates changes to its roadmaps.

Bidder's Response to the Requirements described above:

- Identify any plug-ins necessary for the proposed solution to meet the system requirements of this request.

Bidder's Response to the Requirements described above:

- Describe how customers collaborate with your organization in the decision-making process for upgrades, maintenance, and change control.

Bidder's Response to the Requirements described above:

1.6 Software

Bidder must provide a detailed description of the Solution to be provided under the resulting Contract including, but not limited to, a detailed description of the proposed Software (name, type, version, release number, etc.), its functionality, optional add-on modules, Contractor's services and the Solution ability to be rapidly configured or scaled as the State's business or technical demands change. If Bidder is using any open source or third-party products in connection with the proposed Solution the Bidder must identify these separately in its proposal (including identifying any associated cost in **Schedule B - Pricing**).

Bidder's Response to the Requirements described above:

For third-party products that are being proposed as part of the overall Solution, Bidder must include any end-user license agreements that will be required to access and use such products.

Bidder's Response to the Requirements described above:

Bidder must include any end-user license agreements that will be required by the State to access the Solution as **Exhibit 2 of Schedule E**.

Bidder's Response to the Requirements described above:

1.9 Hosting

Bidder must review the State's standard Contractor Hosted Software and Services attached as **Schedule E**. Bidder must note any exceptions to the Service Level Agreements (SLA) by redlining **Exhibit 1 to Schedule E**.

Bidder must maintain and operate a backup and disaster recovery plan to achieve a Recovery Point Objective (RPO) of 24 hours, and a Recovery Time Objective (RTO) of 24 hours. Bidder must include a copy of its Disaster Recovery Plan as **Exhibit 1 Schedule F** part of their proposal, which will be treated by the State as confidential information.

Bidder's Response to the Requirements described above:

1.10 Products and Services

Bidder must describe additional Solution functionality, products or services that the State specifications do not address but are necessary to implement and support this solution.

Bidder's Response to the Requirements described above:

1.11 SUITE Documentation

In managing its obligation to meet the above milestones and deliverables, the Bidder is required to utilize the applicable [State Unified Information Technology Environment \(SUITE\)](#) methodologies, or an equivalent methodology proposed by the Bidder.

SUITE's primary goal is the delivery of on-time, on-budget, quality systems that meet customer expectations. SUITE is based on industry best practices, including those identified in the Project Management Institute's PMBoK and the Capability Maturity Model Integration for Development. It was designed and implemented to standardize methodologies, processes, procedures, training, and tools for project management and systems development lifecycle management. It offers guidance for efficient, effective improvement across multiple process disciplines in the organization, improvements to best practices incorporated from earlier models, and a common, integrated vision of improvement for all project and system related elements.

While applying the SUITE framework through its methodologies is required, SUITE was not designed to add layers of complexity to project execution. There should be no additional costs from the Bidder, since it is expected that they are already following industry best practices which are at least similar to those that form SUITE's foundation.

SUITE's companion templates are used to document project progress or deliverables. In some cases, Bidders may have in place their own set of templates for similar use. Because SUITE can be tailored to fit specific projects, project teams and State Program Managers may decide to use the Contractor's provided templates, as long as they demonstrate fulfillment of the SUITE methodologies.

The Bidder is required to review <http://www.michigan.gov/suite> and demonstrate how each PMM/SEM requirement will be met. Bidders wishing to use their own documents must submit an example of the document that will be substituted. If the Bidder deems a document to be non-applicable, please provide reasons for the determination. The State reserves the right to give final approval of substituted documents and items marked as non-applicable.

Bidder must describe how they will meet the requirements set forth above and note any exceptions for successful implementation and ongoing support of the Solution.

Bidder's Response to the Requirements described above:

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2. Services Levels

2.1. Time Frames

All Contract Activities must be delivered within the business days described below. The receipt of order date is pursuant to Section 6, Notices, of the Standard Contract Terms.

A. MDOC – See also Schedule C, MDOC Service Level Agreements.

1) Testing Materials

Testing Materials must be delivered within 10 calendar days after receipt of order.

2) Scoring and Results

Once the Contractor receives completed answer documents, the documents must be scanned and score reports must be generated and shipped within 10 business days.

B. MDE

The following Service Levels will be assessed a \$100 per day credit to the State for not meeting the time frames described below. The MDE Program Manager will review any missed or delayed Service Levels prior to notifying the Contractor of the credits to be assessed. The Program Manager will take into consideration any extenuating circumstances.

1) Testing Materials

Material Orders to schools must arrive in schools no less than two weeks prior to testing.

2) Score results to MDE no later than 8 weeks after the end of testing.

3) Score results to schools will be due no later than the first full week in August.

2.2. Delivery

Delivery will be expected within 10 calendar days upon date of order. For MDOC, delivery will be made at the address on the delivery order. For MDE, orders are to be delivered per the contact/address information provided by the OEAA Secure Site.

3. Acceptance

3.1. Acceptance, Inspection and Testing

The State will use the following criteria to determine acceptance of the Contract Activities:

A. MDOC

1) Testing Services and Materials

Signing for the delivery does not constitute acceptance. Acceptance occurs when the State has verified: the requested quantities are delivered in the requested time frame, product is verified to conform to the specifications of the contract, and the quantities are verified with the delivery order and shipper. There is no time limit for MDOC to verify the products conform to specifications of the contract or the quantities are accurate.

2) Scoring and Results

The scoring of each test answer sheet, developing and posting the necessary completion reports, generating the transcripts and printing all certificates for prisoners that pass the Career Readiness Test within 30 calendar days after test date.

Bidder's Response must acknowledge understanding and acceptance to the requirements above:

B. MDE

1) Criteria

The following criteria will be used by the State to determine Acceptance of the Services and/or Deliverables provided under this SOW.

- a. Materials produced match the design provided and approved in writing by the Program Manager.
- b. The quantity of materials produced equals what was approved in writing by the Program Manager.
- c. The quality of the materials meets the specifications of the Contract.
- d. Standard Setting meetings conducted as specified within the Contract.
- e. All materials produced have been accurately tracked and current location is on record. Any materials considered lost, misplaced, or in a condition of not readable are not acceptable.
- f. Orders are to be delivered per the contact/address information provided by the OEAA Secure Site
- g. All reports and data files meet the specification of the Contract.
- h. All designated reports and data files are delivered to the State with acceptance in writing from the Program Manager.
- i. All answer documents are stored in a secure and environmentally controlled location during the length of the Contract.
- j. All materials to be destroyed are done so in confidential manner.

Bidder's Response must acknowledge understanding and acceptance to the requirements above:

3.2. Final Acceptance

MDE

Each assessment cycle is viewed as a project and is considered complete after:

- A. The Program Manager has approved the final reports.
- B. The final reports have been delivered to the appropriate location.
- C. All final data files related to the cycle have been transferred to the State and approved by the Program Manager.

Bidder's Response must acknowledge understanding and acceptance to the requirements above:

4. Staffing

4.1. Contractor Representative

The Contractor must appoint individuals, specifically assigned to State of Michigan accounts, that will respond to State inquiries regarding the Contract Activities, answering questions related to ordering and delivery, etc. (the "Contractor Representative").

MDOC Contractor Representative:

MDE Contractor Representative:

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The Contractor must notify the Contract Administrator at least 30 calendar days before removing or assigning a new Contractor Representative.

Bidder's Response:

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4.2 Contract Administrator

The Contract Administrator for each party is the only person authorized to modify any terms of this Contract, and approve and execute any change under this Contract (each a "**Contract Administrator**");

State:	Contractor:
Jillian Yeates 525 W. Allegan St., Lansing, MI 48933 yeatesj@michigan.gov 517-275-1131	[Name] [Street Address] [City, State, Zip] [Email] [Phone]

4.3 Program Manager

The Program Manager for each party will monitor and coordinate the day-to-day activities of the Contract (each a "**Program Manager**");

State - MDE:	Contractor:
Andrew Middlestead	[Name] [Street Address] [City, State, Zip] [Email] [Phone]
State - MDOC:	
Jessica Evans	

4.4. Customer Service Toll-Free Number

The Contractor must specify its toll-free number for the State to make contact with the Contractor Representative. The Contractor Representative must be available for calls during the hours of 7:00 am to 7:00 pm ET. See also, Section III, 1.3, C. 6 – Call Center for MDE.

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4.5. Technical Support, Repairs and Maintenance

The Contractor must specify its toll-free number for the State to make contact with the Contractor for technical support, repairs and maintenance. The Contractor must be available for calls and service during the hours of 7 am to 7 pm EST.

4.6. Work Hours

The Contractor must provide Contract Activities during the State's normal working hours Monday – Friday, 7:00 a.m. to 7:00 p.m. ET, and possible night and weekend hours depending on the requirements of the project.

4.7. Key Personnel

The Contractor must appoint the individuals listed in the table below who will be directly responsible for the day-to-day operations of the Contract ("Key Personnel"). Key Personnel must be specifically assigned to the State account, be knowledgeable on the contractual requirements, and respond to State inquiries within 5 hours.

The State has the right to recommend and approve in writing the initial assignment, as well as any proposed reassignment or replacement, of any Key Personnel. Before assigning an individual to any Key Personnel position, Contractor will notify the State of the proposed assignment, introduce the individual to the State's Project Manager, and provide the State with a resume and any other information about the individual reasonably requested by the State. The State reserves the right to interview the individual before granting written approval. In the event the State finds a proposed individual unacceptable, the State will provide a written explanation including reasonable detail outlining the reasons for the rejection. The State may require a 30-calendar day training period for replacement personnel.

The Contractor must identify the Key Personnel, indicate where they will be physically located, describe the functions they will perform, and provide current chronological résumés:

Role	Name	Location	Functions	Resume Attached
Corrections Educational Specialist				<input type="checkbox"/>
State Educational Specialist				<input type="checkbox"/>

4.8. Organizational Chart

The Contractor must provide an overall organizational chart that details staff members, by name and title, and subcontractors.

[Bidder's Response:](#)

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4.9. Disclosure of Subcontractors

If the Contractor intends to utilize subcontractors, the Contractor must disclose the following:

- A. The legal business name; address; telephone number;

[Bidder's Response:](#)

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- B. A description of subcontractor's organization and the services it will provide;

[Bidder's Response:](#)

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- C. Information concerning subcontractor's ability to provide the Contract Activities.

[Bidder's Response:](#)

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D. The relationship of the subcontractor to the Contractor.

Bidder's Response:

E. Whether the Contractor has a previous working experience with the subcontractor. If yes, provide the details of that previous relationship.

Bidder's Response:

F. A complete description of the Contract Activities that will be performed or provided by the subcontractor.

Bidder's Response:

4.10. Security

The Contractor will be subject the following security procedures:

A. MDOC

- 1) No active police warrants or pending charges on any staff assigned to this contract, including subcontractors.
- 2) MDOC reserves the right to approve, decline, or remove Contractor and subcontractor staff from providing services on this Contract.
- 3) Contractor staff that provide direct services to offenders (prisoner, parolee, probationer), handle or may have access to offender records, or provides supervisory services to staff performing these functions, must complete the Law Enforcement Information Network (LEIN) Form at the start of the contract and annually thereafter, as directed by the Michigan Department of Corrections.
- 4) The completed LEIN Information Form must be sent to the MDOC-PMCD-FOA-LEINS@michigan.gov and approved by MDOC prior to Contract staff working with MDOC offenders. There is no cost associated with the LEIN. The LEIN form will be provided to the Contractor.
- 5) Contractor must perform background checks on subcontractor staff prior to their assignment. Documentation must be provided upon request to the State of Michigan. Contractor is responsible for all costs associated with the processing the background checks. The State, in its sole discretion, may also perform background checks. The background check must include the Michigan State Police Internal Criminal History Access Tool (ICHAT), or the municipal/federal equivalent. The Contractor must maintain a copy of the background check(s) for auditing purposes.
- 6) Contractor staff may be required to complete and submit an RI-8 Fingerprint Card for Finger Print Checks to the MDOC.
- 7) The Contractor and subcontractor must verify and document whether a staff member assigned to the Contract is related to or acquainted with an offender receiving services under this Contract. For staff who are related to or acquainted with an offender, the Contractor's staff member must complete the Offender Contact Exception Request (CAJ-202) and submit it to the MDOC Program Manager or designee. The Contractor must ensure its staff complete the form and notify the MDOC Program Manager of any changes throughout the contract term. The

Contractor must maintain a copy of the form in the employee's personnel file for auditing purposes.

Bidder's Response:

B. MDE – See Section III, 1.3, C. 13.

The Contractor must explain any additional security measures in place to ensure the security of State facilities.

The Bidder's staff may be required to make deliveries to or enter State facilities. The bidder must: (a) explain how it intends to ensure the security of State facilities, (b) whether it uses uniforms and ID badges, etc., (c) identify the company that will perform background checks, and (d) the scope of the background checks. The State may require the Contractor's personnel to wear State issued identification badges.

Bidder's Response:

5. Project Management

5.1. Project Plan and Project Control

Project plan should identify items such as the required contact personnel; the date the project plan must be submitted to the State; project management process; project breakdown identifying sub-projects, tasks, and resources required; expected frequency and mechanisms for updates/progress reviews; process for addressing issues/changes; and individuals responsible for receiving/reacting to the requested information. The Contractor will provide their preliminary project for review to the Agency Program Manager within 10 calendar days of the effective date. The Contractor will revise in consultation with the OEAA Program Manager and resubmit as a deliverable for final approval within 30 calendar days of the Effective Date. The plan must include:

A. MDOC

1) Project Plan

The Contractor must submit a Project Plan as described above for MDOC.

Bidder's Response, including an attached sample Project Plan.

2) Project Control

- a. The Contractor must carry out this project under the direction and control of MDOC.
- b. Within 10 business days of the execution of the Contract, the Contractor must submit the project plan to the State Program Manager for final approval. This project plan must be in agreement with Section 5.1.A. and must include the following:
 1. The Contractor's project organizational structure.
 2. The Contractor's staffing table with names and titles of personnel assigned to the project. This must be in agreement with staffing of accepted proposal. Necessary substitutions due to change of employment status and other unforeseen circumstances may only be made with prior approval of the State.

Bidder's Response:

3) Timeline

The Contractor must submit to MDOC a Timeline for transition and project deliverables that aligns with Section 5.1.A.1).

Bidder's Response:

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B. MDE

1) The Preliminary Project Plan must include the following:

- a. MS Project Schedule
 - 1. Internal milestones
 - 2. Task durations
 - 3. Deliverable target dates and critical paths
- b. Project approach/Statement of Work

Scope Statement with a description of the deliverables to be provided under this Contract.

- c. Assumptions and exclusions
- d. Critical success factors
- e. Initial resource plan with anticipated resources by organization, role, and responsibility
- f. Initial risk plan
- g. Initial communication plan
- h. Anticipated hardware, materials, and supplies to be provided by the State in meeting the target dates established in the Preliminary Project Plan

Bidder's Response must include a Preliminary Project Plan as an appendix with their bid response for evaluation purposes, including necessary timeframes and deliverables for the various stages of the project and the responsibilities and obligations of both the Contractor and the State:

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2) Project Control

- a. The Contractor must carry out this project under the direction and control of OEAA.
- b. Within 10 business days of the execution of the Contract, the Contractor must submit the project plan to the State Program Manager for final approval. This project plan must be in agreement with Section 5.1.B.1). and must include the following:
 - 1. The Contractor's project organizational structure.
 - 2. The Contractor's staffing table with names and titles of personnel assigned to the project. This must be in agreement with staffing of accepted proposal. Necessary substitutions due to change of employment status and other unforeseen circumstances may only be made with prior approval of the State.
 - 3. The project work breakdown structure (WBS) showing sub-projects, activities and tasks, and resources required and allocated to each.
 - 4. Contractor must use an automated tool for planning, monitoring, and tracking the Contract's progress and the level of effort of any Contractor personnel spent

performing Services under the Contract. The tool must have the capability to produce:

- a. Staffing tables with names of personnel assigned to Contract tasks.
 - b. Project plans showing tasks, subtasks, deliverables, and the resources required and allocated to each (including detailed plans for all Services to be performed within the next 30 calendar days, updated weekly or biweekly as directed by the State PM).
 - c. Updates must include actual time spent on each task and a revised estimate to complete.
 - d. Graphs showing critical events, dependencies and decision points during the course of the Contract.
5. Any tool(s) used by the Contractor for such purposes must produce information of a type and in a manner and format that will support reporting in compliance with the State standards.

Bidder's Response must acknowledge agreement to the requirements above and provide details as to how they plan on meeting the requirements:

3) Proposed Timeline

The Contractor must submit to MDE a Timeline for transition and project deliverables that aligns with Section 5.1.B.1).

Bidder's Response:

5.2. Meetings

The Contractor must attend the following meetings:

A. MDOC

Kick-Off Meeting: The Contractor must meet with the MDOC Program Manager and other staff to discuss goals, expectations, transition and a project plan within 30 days of the effective date.

Bidder's Response:

The State may request other meetings, as it deems appropriate.

B. MDE

Throughout the term of the Contract, there will be many meetings pertaining to the tasks covered by this Statement of Work between the Contractor and MDE. Participation of the Contractor and Subcontractors is critical to the timely implementation of the work skills test.

There are basic and specific meeting responsibilities. The basic meeting responsibilities are required of the Contractor for all meetings identified for the Contract. Requirements Gatherings and UATs are examples of basic meetings. Failure by the Contractor to provide any of the responsibilities listed in

this section may result in non-payment of all costs related to the respective meeting(s) and require the Contractor to arrange and pay for a replacement meeting(s).

1) Basic Meeting Responsibilities of Contractor

The Contractor will be responsible for conducting all basic meetings, including arrangements and compensation for all meetings related to the implementation activities as specified in this Statement of Work for the following:

- a. In consultation with OEAA, identify meeting titles, dates, and attendees.
- b. Locate, reserve and pay for a facility on the date(s) identified. The facility must have:
 1. Seating capacity for the expected attendees
 2. A large display screen that can easily be seen by all attendees.
 3. ADA compliance.
 4. Unless specifically indicated to the contrary, all meetings will be held in Lansing, Michigan.
- c. Arrange and pay for overnight accommodations for multi-day meetings for any attendee traveling between 50 and 150 miles to the meeting.
- d. Arrange and pay for overnight accommodations for the night before, the night(s) during, and the night following any meeting for any attendee traveling more than 150 miles to the meeting.
- e. Provide transportation for any attendee traveling out of the State.
- f. Must have written approval from OEAA's Director before transportation arrangements are made.
- g. Provide refreshments (water, coffee, tea, juice, soft drinks, and healthy snacks) for all attendees.
- h. Provide healthy lunches to all attendees for meetings lasting more than four hours and beginning at or before 12 noon local time.
- i. Prepare an agenda for the meeting.
- j. Send out and track invitations to each meeting.
 1. Send copies of the agenda with invitations.
 2. Provide copies of notes from previous meetings.
- k. Set up and provide a sign-in sheet with the title and date of each meetings.
 1. Ensure that all attendees sign in, including Contractor's staff, OEAA staff, and all other attendees.
 2. Set up a separate sign-in sheet for each date of a multi-day meeting. For example, if one meeting lasts two days then there must be a separate sign-in sheet for each day.
 3. The original sign-in sheets must be given to OEAA within five business days following the meeting.
 4. The Contractor must retain a copy of the sign-in sheets for up to two years following the end of the term of the Contract.
- l. Prepare and maintain accurate minutes of each meeting. The Contractor must include an example of the minute's structure that will be used by staff with their proposal.
 1. Send OEAA a copy of the minutes within three business days following the meeting.
 2. Publish final minutes and any stakeholder comments to a password-protected shared data source.

Bidder's Response to the Requirements described above including explaining its capabilities and plans to meet the requirements above:

2) Responsibilities of Contractor for Specific Meetings

The Contractor will be responsible for conducting all specific meetings, including arrangement and compensation for all meetings related to the implementation activities as specified in this Statement of Work and the following:

a. Weekly Management Meetings

1. OEAA Staff will meet at least monthly with the Contractor's key staff to review completed, current and future tasks and their timelines.
 - a. During the first year of the Contract, or during peak times, these meetings may be held weekly.
 - b. The Contractor Leads for key tasks must attend these meetings unless otherwise indicated in writing by OEAA.
 - c. OEAA reserves the right to require other Contractor staff, key for specific activities, to attend one or more of these meetings. OEAA will provide written notification (to the Contractor's Project Manager) requiring the attendance of any such individual in reasonable time for the request to be accommodated.
2. Four management meetings, one every three months, must be in-person meetings, which can rotate between OEAA's office in Lansing, MI, and the Contractor's primary facility. These meetings are not the same as the Executive Management Meetings.
3. Web conferencing or teleconferencing can also be used.

b. Executive Management Meetings

1. At least three of each OEAA's and the Contractor's senior officers must meet at least twice a year to review overall Contract performance.
 - a. These are high-level meetings to review project goals, assess foreseeable risks, address major issues, and discuss financial matters.
 - b. The frequency of these meetings may be increased at the discretion of OEAA's Program Manager.
2. These are all in-person meetings.
3. The meetings will be held in rotation between the Contractor's primary facility and OEAA's office in Lansing, MI.
4. The first meeting must be held within 60 calendar days of Contract start date.
5. The OEAA Contract Change Request Control Statement must be read at the beginning and at the conclusion of all executive management meetings.

c. Technical Advisory Committee (TAC) Meetings

The TAC is a panel of nationally recognized assessment experts who provide advice to OEAA on complex assessment-related issues. The TAC meetings are conducted and coordinated by OEAA. They are typically convened four times per year and last up to two days each. Since most of the meetings tend to address assessment administration topics, by invitation, OEAA may request the presence of two representatives from the Contractor's staff. Therefore, for budget purposes the Contractor should plan on sending two staff, four times per year, payable only in cases in which the staff is in attendance.

d. Orientation Meeting

If requested by the State, within 10 calendar days from execution of the Contract, the Contractor will be required to attend an orientation meeting to discuss the content and procedures of the Contract. The meeting must be held in Lansing, Michigan, at a date and time mutually acceptable to the State and the Contractor. The State shall bear no cost for the time and travel of the Contractor for attendance at the meeting.

e. Performance Review Meetings

The Contractor must attend bi-weekly or monthly meetings to review the Contractor's performance under the Contract. The meetings must be held in Lansing, Michigan, or by teleconference, as mutually agreed by the State and the Contractor. The State shall bear no cost for the time and travel of the Contractor for attendance at the meeting.

Bidder's Response to the Requirements described above including explaining its capabilities and plans to meet the requirements above:

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The State may request other meetings, as it deems appropriate.

5.3. Reporting

A. MDOC

- 1) The Contractor must indefinitely maintain records/reports of all testing for reporting purposes.
- 2) The Contractor must send a batch report with each set of test results showing scale score and level achieved.
- 3) The State may request additional reports as it deems necessary at an agreed upon fee.

Bidder's Response, including attached sample reports:

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B. MDE

A weekly project status report is required from the Contractor to the State Program Manager on the topics of status, schedule, risks, issues, impediments, deliverables, change control, and accomplishments, beginning upon execution of the Contract for the duration of the Contract unless otherwise agreed to.

Reporting topics must include the following items:

- 1) Project Status
- 2) Planned % Complete
- 3) Actual % complete
- 4) Current SUITE stage
- 5) Planned SUITE stage
- 6) Planned Start Date
- 7) Planned Finish Date
- 8) Planned Hours
- 9) Actual Start
- 10) Actual Finish

- 11) Actual Hours
- 12) On Target for Completion (Y/N)
- 13) New Forecast Completion Date
- 14) # of Defects Identified
- 15) # of Defects Resolved
- 16) Pending Change Requests under the subheadings Corrective Actions and Enhancements
- 17) Help Desk Issues
- 18) Team Changes

Bidder's Response, including attached sample reports that would meet the requirements above:

6. Pricing

6.1. Price Term

Pricing is firm for the entire length of the Contract.

6.2. Price Changes

After the initial Contract Term, adjustments will be based on changes in actual Contractor costs. Any request must be supported by written evidence documenting the change in costs. The State may consider sources, such as the Consumer Price Index; Producer Price Index; other pricing indices as needed; economic and industry data; manufacturer or supplier letters noting the increase in pricing; and any other data the State deems relevant.

Following the presentation of supporting documentation, both parties will have 30 days to review the information and prepare a written response. If the review reveals no need for modifications, pricing will remain unchanged unless mutually agreed to by the parties. If the review reveals that changes are needed, both parties will negotiate such changes, for no longer than 30 days, unless extended by mutual agreement.

The Contractor remains responsible for Contract Activities at the current price for all orders received before the mutual execution of a Change Notice indicating the start date of the new Pricing Period.

7. Ordering

7.1. Authorizing Document

The appropriate authorizing document for the Contract will be a signed Master Agreement and a Delivery Order. The Contractor is not authorized to begin performance until receipt of a Delivery Order.

7.1 Order Verification

The Contractor must have internal controls, approved by DTMB Central Procurement Services, to verify abnormal orders and to ensure that only authorized individuals place orders.

8. Delivery

8.1 Delivery Programs

MDOC

- A. The Contractor must deliver all testing materials in a secure approved package to the School Office at the designated State facilities. The delivery location will be designated on the material order form.
- B. The Contractor must explain in detail its delivery programs (e.g. standard delivery and quick-ship), including any limitations such as quantity.

Bidder's Response:

- C. The Contractor must explain the transportation method (e.g. UPS, FedEx, Contractor fleet, or other third-party carrier) it intends on utilizing in delivery of the Contract Activities.

Bidder's Response:

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MDE – Please see Section III, 1.3, C.10 Packaging and Distribution and C.14 Procedures for School Return of Test Materials.

8.2 Packaging and Palletizing

MDOC

- A. Shipping boxes must be marked with the Name of the Proposed Test.
- B. The Contractor must ship all packages "F.O.B. Destination, within Government Premises" with transportation charges included in the price. The State will not pay any Packaging must be optimized to permit the lowest freight rate.
- C. Shipments must be palletized whenever possible under manufacturer's standard 4-way shipping pallets.

Bidder's Response:

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MDE – Please see Section III, 1.3, C.10 Packaging and Distribution and C.14 Procedures for School Return of Test Materials.

9. Invoice and Payment

9.1. Invoice Requirements

A. MDOC

MDOC will only be invoiced for the tests Contractor scores. All invoices submitted to MDOC must include: (a) MA number (b) date; (c) delivery order number; (d) quantity; (e) description of the Contract Activities; (f) testing location (g) unit price; (h) shipping cost (if any); and (i) total price.

Invoices must be received by MDOC within 30 calendar days of testing. Overtime, holiday pay, and travel expenses will not be paid. Invoices may be emailed to MDOCAP@michigan.gov. Questions and concerns regarding payment may also be emailed to MDOCAP@michigan.gov.

B. MDE

The Contractor will submit invoices to MDE within 30 days after tests are scored, or not later than August 30 in the testing year, whichever is earlier. All invoices will reflect actual work performed that meets the specification of this contract and using the appropriate rates provided by the Contractor and accepted by MDE in Schedule B: Pricing Sheet.

9.2. Payment Methods

The State will make payment for Contract Activities via Electronic Funds Transfer (EFT).

9.3. Procedure

A. MDOC

MDOC will only provide payment for tests registered and scored. Any discrepancies regarding completion of a test must be resolved by the Contractor and MDOC prior to submitting any invoice for payment.

B. MDE

MDE will only provide payment for tests registered and scored. Any discrepancies regarding completion of a test must be resolved by the Contractor and MDE prior to submitting any invoice for payment.

10. Liquidated Damages

Late or improper completion of the Contract Activities will cause loss and damage to the State and it would be impracticable and extremely difficult to fix the actual damage sustained by the State. Therefore, if there is late or improper completion of the Contract Activities the State is entitled to collect liquidated damages in the amount of \$5,000 and an additional \$100 per day for each day Contractor fails to remedy the late or improper completion of the Work.

STATE OF MICHIGAN

Request For Proposal No. 200000001688
Work Skills Assessment for MDE and MDOC

Attachment A TESTING STANDARDS CERTIFICATE LEVELS

Bronze Level

Bronze certification requires competence in the following areas.

Applied Math

- Solve problems that require a single type of mathematics operation (addition, subtraction, multiplication, and division) using whole number
- Add or subtract negative numbers
- Change numbers from one form to another using whole numbers, fractions, decimals, or percentage
- Convert simple money and time units (e.g., hours to minutes)

Graphic Literacy

- Find one or two pieces of information in a graphic
- Fill in one or two pieces of information that are missing from a graphic

Workplace Documents

- Identify main ideas and clearly stated details
- Choose the correct meaning of a word that is clearly defined in the reading
- Choose the correct meaning of common, everyday workplace words
- Choose when to perform each step in a short series of steps
- Apply instructions to a situation that is the same as the one in the reading material

Silver Level

In addition to the skills required for a Bronze certificate, Silver certification requires competence in the following areas.

Applied Math

- Solve problems that require one or two operations
- Multiply negative numbers
- Calculate averages, simple ratios, simple proportions, or rates using whole numbers and decimals
- Add commonly known fractions, decimals, or percentages (e.g., $\frac{1}{2}$, 75, and 25%)
- Add up to three fractions that share a common denominator
- Multiply a mixed number by a whole number or decimal
- Put the information in the right order before performing calculations

Graphic Literacy

- Find several pieces of information in one or two graphics
- Understand how graphics are related to each other
- Summarize information from one or two straightforward graphic
- Identify trends shown in one or two straightforward graphics
- Compare information and trends shown in one or two straightforward graphics

Workplace Documents

- Identify important details that may not be clearly stated
- Use the reading material to figure out the meaning of words that are not defined
- Apply instructions with several steps to a situation that is the same as the situation in the reading materials
- Choose what to do when changing conditions call for a different action (follow directions that include "if-then" statements)

Gold Level

In addition to the skills required for both Bronze and Silver certification, Gold certification requires competence in the following areas:

Applied Math

- Decide what information, calculations, or unit conversions to use to solve the problem
- Look up a formula and perform single-step conversions within or between systems of measurement
- Calculate using mixed units (e.g., 3.5 hours and 4 hours 30 minutes)
- Divide negative numbers
- Find the best deal using one- and two-step calculations and then comparing results
- Calculate perimeters and areas of basic shapes (rectangles and circles)
- Calculate percent discounts or markups

Graphic Literacy

- Sort through distracting information
- Summarize information from one or more detailed graphics
- Identify trends shown in one or more detailed or complicated graphics
- Compare information and trends from one or more complicated graphics

Workplace Documents

- Determine the correct meaning of a word based on how the word is used
- Identify the correct meaning of an acronym that is defined in the document
- Identify the paraphrased definition of a technical term or jargon that is defined in the document
- Apply technical terms and jargon and relate them to stated situations
- Apply straightforward instructions to a new situation that is similar to the one described in the material
- Apply complex instruction that include conditions to a situations described in the materials

Platinum Level

- Examinees receiving a score of 6 or above on all three of the Qualifying Assessments receive the Platinum Certificate.

STATE OF MICHIGAN

Request For Proposal No. 200000001688
Work Skills Readiness Assessment for MDE and MDOC

SCHEDULE B PRICING

1. The Contractor must provide a pricing schedule for the proposed Contract Activities for both MDE and MDOC using the Pricing described below. The pricing schedule should be submitted in a modifiable format (e.g., Microsoft Word or Excel); however, you may also submit an additional pricing schedule in a non-modifiable format (e.g., PDF). Failure to complete the pricing schedule as requested may result in disqualification of your proposal.
 - a. MDOC – Schedule B – Attachment 1 Word Document Below
 - b. MDE - Schedule B - Attachment 2 Excel Document Attached
2. Price proposals must include all costs, including but not limited to, any one-time or set-up charges, fees, and potential costs that Contractor may charge the State (e.g., shipping and handling, per piece pricing, and palletizing).
3. The Contractor is encouraged to offer quick payment terms. The number of days must not include processing time for payment to be received by the Contractor's financial institution.

Quick payment terms: _____ % discount off invoice if paid within _____ days after receipt of invoice.

4. By submitting its proposal, the Contractor certifies that the prices were arrived at independently, and without consultation, communication, or agreement with any other Contractor.

Schedule B – Attachment 1**MDOC Pricing Schedule:**

Item	Estimated 3 Year Quantity	Unit of Measure	Unit Price	Total 3 Year Cost
1) Testing Materials including test booklets and answer sheets for all three components: i. Applied Math, ii. Graphic Literacy, and iii. Work Place Documents.	30,000	SET (all three components)	\$	\$
2) Test Scoring Fee to include all three components: i. Applied Math, ii. Graphic Literacy, and iii. Work Place Documents. MDOC will pay for only tests the Contractor scores.	30,000	SET (all three components)	\$	\$
3) Certificates to include registration costs	15,000	EA	\$	\$
4) CD-ROM version of the database	12	EA	\$	\$
Total 3 Year Cost				\$



STATE OF MICHIGAN

STANDARD CONTRACT TERMS

This STANDARD CONTRACT ("**Contract**") is agreed to between the State of Michigan (the "**State**") and [Insert Company Name] ("**Contractor**"), a [Insert State & Entity Status, e.g., a Michigan corporation or a Texas limited liability company]. This Contract is effective on August 15, 2020 ("**Effective Date**"), and unless terminated, expires on August 14, 2023.

This Contract may be renewed for up to two (2) additional one (1) year period(s). Renewal is at the sole discretion of the State and will automatically extend the Term of this Contract. The State will document its exercise of renewal options via Contract Change Notice.

1. Definitions. For the purposes of this Contract, the following terms have the following meanings:

- a. "**Accept**" has the meaning set forth in **Section 20**.
- b. "**Acceptance**" has the meaning set forth in **Section 20**.
- c. "**Affiliate**" of a Person means any other Person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, such Person. For purposes of this definition, the term "control" (including the terms "controlled by" and "under common control with") means the direct or indirect ownership of more than fifty percent (50%) of the voting securities of a Person.
- d. "**Allegedly Infringing Materials**" has the meaning set forth in **Section 33**.
- e. "**Business Day**" means a day other than a Saturday, Sunday or other day on which the State is authorized or required by Law to be closed for business.
- f. "**Business Owner**" is the individual appointed by the agency buyer to (a) act as the agency's representative in all matters relating to the Contract, and (b) co-sign off on notice of Acceptance. The Business Owner will be identified in the Statement of Work.
- g. "**Change**" has the meaning set forth in Section 5.
- h. "**Change Notice**" has the meaning set forth in Section 5.
- i. "**Change Proposal**" has the meaning set forth in Section 5.
- j. "**Change Request**" has the meaning set forth in Section 5.
- k. "**Confidential Information**" has the meaning set forth in Section 38.a.
- l. "**Configuration**" means State-specific changes made to the Software without Source Code or structural data model changes occurring.
- m. "**Contract**" has the meaning set forth in the preamble.
- n. "**Contract Activities**" refers to the includes the Services, Deliverables, delivery of commodities, or other contractual requirements set forth in **Schedule A – Statement of Work**, including any subsequent Statement(s) of Work, that the Contractor agrees to provide and the State agrees to purchase pursuant to the terms of this Contract.
- o. "**Contract Administrator**" is the individual appointed by each party to (a) administer the terms of this Contract, and (b) approve any Change Notices under this Contract. Each party's Contract Administrator will be identified in the Statement of Work.
- p. "**Contractor**" has the meaning set forth in the preamble.
- q. "**Contractor's Bid Response**" means the Contractor's proposal submitted in response to the State's requests to obtain Contract Activities.
- r. "**Contractor Personnel**" means all employees of Contractor or any Permitted Subcontractors involved in the performance of Services hereunder.

- s. **"Deliverables"** means all materials, including, but not limited to Software, Documentation, written materials and commodities, that Contractor is required to or otherwise does provide to the State under this Contract and otherwise in connection with any Services, including all items specifically identified as Deliverables in **Schedule A - Statement of Work**.
- t. **"Dispute Resolution Procedure"** has the meaning set forth in **Section 55**.
- u. **"Documentation"** means all generally available documentation relating to the Software, including all user manuals, operating manuals and other instructions, specifications, documents and materials, in any form or media, that describe any component, feature, requirement or other aspect of the Software or Hosted Services (as defined in **Schedule D**), including any functionality, testing, operation or use thereof.
- v. **"DTMB"** means the Michigan Department of Technology, Management and Budget.
- w. **"Effective Date"** has the meaning set forth in the preamble.
- x. **"Fees"** means collectively all fees collected by the Contractor pursuant to the terms of this Contract.
- y. **"Financial Audit Period"** has the meaning set forth in Section 42.
- z. **"Force Majeure"** has the meaning set forth in Section 54.
- aa. **"HIPAA"** has the meaning set forth in Section 47.
- bb. **"Intellectual Property Rights"** means all or any of the following: (a) patents, patent disclosures, and inventions (whether patentable or not); (b) trademarks, service marks, trade dress, trade names, logos, corporate names, and domain names, together with all of the associated goodwill; (c) copyrights and copyrightable works (including computer programs), mask works and rights in data and databases; (d) trade secrets, know-how and other confidential information; and (e) all other intellectual property rights, in each case whether registered or unregistered and including all applications for, and renewals or extensions of, such rights, and all similar or equivalent rights or forms of protection provided by applicable Law in any jurisdiction throughout the world.
- cc. **"Key Personnel"** means any Contractor Personnel identified as key personnel in Schedule A – Statement of Work.
- dd. **"Law"** means any statute, law, ordinance, regulation, rule, code, order, constitution, treaty, common law, judgment, decree or other requirement or rule of any federal, state, local or foreign government or political subdivision thereof, or any arbitrator, court or tribunal of competent jurisdiction.
- ee. **"Loss or Losses"** means all losses, damages, liabilities, deficiencies, claims, actions, judgments, settlements, interest, awards, penalties, fines, costs or expenses of whatever kind, including reasonable attorneys' fees and the costs of enforcing any right to indemnification hereunder and the cost of pursuing any insurance providers.
- ff. **"Maintenance Release"** means any update, upgrade, release or other adaptation or modification of the Software, including any updated Documentation, that Contractor may generally provide to its licensees from time to time during the Term, which may contain, among other things, error corrections, enhancements, improvements or other changes to the user interface, functionality, compatibility, capabilities, performance, efficiency or quality of the Software.
- gg. **"New Version"** means any new version of the Software that the Contractor may from time to time introduce and market generally as a distinct licensed product, as may be indicated by Contractor's designation of a new version number.
- hh. **"Permitted Subcontractor"** has the meaning set forth in **Section 13**.
- ii. **"Person"** means an individual, corporation, partnership, joint venture, limited liability company, governmental authority, unincorporated organization, trust, association or other entity.
- jj. **"Pricing"** means any and all fees, rates and prices payable under this Contract, including pursuant to any Schedule or Exhibit hereto.
- kk. **"Pricing Schedule"** means the schedule attached as Schedule B, setting forth the Fees, rates and Pricing payable under this Contract.
- ll. **"Program Manager"** is the individual appointed by each party to (a) monitor and coordinate the day-to-day activities of this Contract, and (b) for the State, to co-sign off on its notice of Acceptance of the Deliverables. Each party's Program Manager will be identified in the Statement of Work.
- mm. **"Representatives"** means a party's employees, officers, directors, partners, shareholders, agents, attorneys, successors and permitted assigns.
- nn. **"RFP"** means the State's request designed to solicit responses for Contract Activities under this Contract.

- oo. **“Software”** means Contractor’s software set forth in the Statement of Work, and any Maintenance Releases or New Versions provided to the State and any Configurations made by or for the State pursuant to this Contract, and all copies of the foregoing permitted under this Contract and the License Agreement.
- pp. **“Services”** means any of the services Contractor is required to or otherwise does provide under this Contract, Schedule A - Statement of Work, Schedule C - Software Terms for On-site Hosting (if applicable), and Schedule E – Contractor Hosted Software and Services (if applicable).
- qq. **“Source Code”** means the human readable source code of the Software to which it relates, in the programming language in which the Software was written, together with all related flow charts and technical documentation, including a description of the procedure for generating object code, all of a level sufficient to enable a programmer reasonably fluent in such programming language to understand, build, operate, support, maintain and develop modifications, upgrades, updates, adaptations, enhancements, new versions and other derivative works and improvements of, and to develop computer programs compatible with, the Software.
- rr. **“Site”** means the physical location designated by the State in, or in accordance with, this Contract or the Statement of Work for delivery or installation of the Contract Activities.
- ss. **“State”** means the State of Michigan.
- tt. **“State Data”** has the meaning set forth in Section 37.a.
- uu. **“State Materials”** means all materials and information, including equipment, documents, data, know-how, ideas, methodologies, specifications, software, content and technology, in any form or media, directly or indirectly provided or made available to Contractor by or on behalf of the State in connection with this Contract.
- vv. **“Statement of Work”** means any statement of work entered into by the parties and attached as a schedule to this Contract. The initial Statement of Work is attached as Schedule A, and subsequent Statements of Work shall be sequentially identified and attached as Schedules A-1, A-2, A-3, etc.
- ww. **“Stop Work Order”** has the meaning set forth in Section 27.
- xx. **“Term”** has the meaning set forth in the preamble.
- yy. **“Third Party”** means any Person other than the State or Contractor.
- zz. **“Transition Period”** has the meaning set forth in Section 31.
- aaa. **“Transition Responsibilities”** has the meaning set forth in Section 31.
- bbb. **“Unauthorized Removal”** has the meaning set forth in Section 15.
- ccc. **“Unauthorized Removal Credit”** has the meaning set forth in Section 15.
- ddd. **“Warranty Period”** means the period set forth in Schedule A, the Statement of Work, commencing on the date of acceptance of all Deliverables purchased pursuant to the terms of this Contract.
- eee. **“Work Product”** means all State-specific deliverables that Contractor is required to, or otherwise does, provide to the State under this Contract including but not limited to written materials, computer scripts, software configuration, software customization, APIs, macros, user interfaces, reports, project management documents, forms, templates, and other State-specific documents and related materials together with all ideas, concepts, processes, and methodologies developed in connection with this Contract whether or not embodied in this Contract. Work Product does not include software.

2. Duties of Contractor. Contractor must perform the Services and provide the Deliverables described in **Schedule A – Statement of Work**. An obligation to provide delivery of any commodity is considered a service and is a Contract Activity.

Contractor must furnish all labor, equipment, materials, and supplies necessary for the performance of the Contract Activities, and meet operational standards, unless otherwise specified in **Schedule A**.

Contractor must also be clearly identifiable while on State property by wearing identification issued by the State, and clearly identify themselves whenever making contact with the State.

3. Statement(s) of Work. Contractor shall provide the Contract Activities pursuant to Statements of Work entered into under this Contract. No Statement of Work shall be effective unless signed by each party’s

Contract Administrator. The term of each Statement of Work shall commence on the parties' full execution of the Statement of Work and terminate when the parties have fully performed their obligations. The terms and conditions of this Contract will apply at all times to any Statements of Work entered into by the parties and attached as a schedule to this Contract. The State shall have the right to terminate such Statement of Work as set forth in **Sections 28 and 29**. Contractor acknowledges that time is of the essence with respect to Contractor's obligations under each Statement of Work and agrees that prompt and timely performance of all such obligations in accordance with this Contract and the Statements of Work is strictly required.

4. **Statement of Work Requirements.** Each Statement of Work may include the following: (a) names and contact information for Contractor's Contract Administrator, Program Manager and Key Personnel; (b) names and contact information for the State's Contract Administrator, Program Manager and Business Owner; (c) a detailed description of the Services to be provided under this Contract, including any training obligations of Contractor; (d) a detailed description of the Deliverables to be provided under this Contract; (e) a description of all liquidated damages associated with this Contract, if any; and (f) a detailed description of all State Resources, if any, required to complete the Implementation Plan, if such a Plan is necessary.
5. **Change Control Process.** The State may at any time request in writing (each, a "Change Request") changes to the Statement of Work, including changes to the Contract Activities (each, a "Change"). Upon the State's submission of a Change Request, the parties will evaluate and implement all Changes in accordance with this **Section 5**. No Change will be effective until the parties have executed a Change Notice. Except as the State may request in its Change Request or otherwise in writing, Contractor must continue to perform its obligations in accordance with the Statement of Work pending negotiation and execution of a Change Notice. Contractor will use its best efforts to limit any delays or Fee increases from any Change to those necessary to perform the Change in accordance with the applicable Change Notice. Contractor may, on its own initiative and at its own expense, prepare and submit its own Change Request to the State. However, the State will be under no obligation to approve or otherwise respond to a Change Request initiated by Contractor.
6. **Notices.** All notices and other communications required or permitted under this Contract must be in writing and will be considered given and received: (a) when verified by written receipt if sent by courier; (b) when actually received if sent by mail without verification of receipt; or (c) when verified by automated receipt or electronic logs if sent by facsimile or email.

If to State:	If to Contractor:
Jillian Yeates 525 W. Allegan St. Lansing, MI 48933 yeatesj@michigan.gov 517-275-1131	[Name] [Street Address] [City, State, Zip] [Email] [Phone]

7. **Performance Guarantee.** Contractor must at all times have financial resources sufficient, in the opinion of the State, to ensure performance of the Contract and must provide proof upon request. The State may require a performance bond (as specified in Schedule A) if, in the opinion of the State, it will ensure performance of the Contract.
8. **Insurance Requirements.** Contractor must maintain the insurances identified below and is responsible for all deductibles. All required insurance must: (a) protect the State from claims that may arise out of, are alleged to arise out of, or result from Contractor's or a subcontractor's performance; (b) be primary and non-contributing to any comparable liability insurance (including self-insurance) carried by the State; and (c) be provided by a company with an A.M. Best rating of "A-" or better, and a financial size of VII or better.

Required Limits	Additional Requirements
Commercial General Liability Insurance	
<u>Minimum Limits:</u> \$1,000,000 Each Occurrence Limit \$1,000,000 Personal & Advertising Injury Limit \$2,000,000 General Aggregate Limit \$2,000,000 Products/Completed Operations <u>Deductible Maximum:</u> \$50,000 Each Occurrence	Contractor must have their policy endorsed to add "the State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees, and agents" as additional insureds using endorsement CG 20 10 11 85, or both CG 2010 07 04 and CG 2037 07 04. Coverage must not have exclusions or limitations related to sexual abuse and molestation liability.
Automobile Liability Insurance	
<u>Minimum Limits:</u> \$1,000,000 Per Accident	Contractor must have their policy: (1) endorsed to add "the State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees, and agents" as additional insureds; and (2) include Hired and Non-Owned Automobile coverage.
Workers' Compensation Insurance	
<u>Minimum Limits:</u> Coverage according to applicable laws governing work activities.	Waiver of subrogation, except where waiver is prohibited by law.
Employers Liability Insurance	
<u>Minimum Limits:</u> \$500,000 Each Accident \$500,000 Each Employee by Disease \$500,000 Aggregate Disease.	
Privacy and Security Liability (Cyber Liability) Insurance	
<u>Minimum Limits:</u> \$1,000,000 Each Occurrence	Contractor must have their policy: (1) endorsed to add "the State of Michigan, its departments, divisions,

\$1,000,000 Annual Aggregate	agencies, offices, commissions, officers, employees, and agents” as additional insureds; and (2) cover information security and privacy liability, privacy notification costs, regulatory defense and penalties, and website media content liability.
Professional Liability (Errors and Omissions) Insurance	
<u>Minimum Limits:</u> \$3,000,000 Each Occurrence \$3,000,000 Annual Aggregate <u>Deductible Maximum:</u> \$50,000 Per Loss	

If any of the required policies provide **claims-made** coverage, the Contractor must: (a) provide coverage with a retroactive date before the effective date of the contract or the beginning of Contract Activities; (b) maintain coverage and provide evidence of coverage for at least three (3) years after completion of the Contract Activities; and (c) if coverage is cancelled or not renewed, and not replaced with another claims-made policy form with a retroactive date prior to the contract effective date, Contractor must purchase extended reporting coverage for a minimum of three (3) years after completion of work.

Contractor must: (a) provide insurance certificates to the Contract Administrator, containing the agreement or delivery order number, at Contract formation and within 20 calendar days of the expiration date of the applicable policies; (b) require that subcontractors maintain the required insurances contained in this Section; (c) notify the Contract Administrator within 5 business days if any insurance is cancelled; and (d) waive all rights against the State for damages covered by insurance. Failure to maintain the required insurance does not limit this waiver.

This Section is not intended to and is not to be construed in any manner as waiving, restricting or limiting the liability of either party for any obligations under this Contract (including any provisions hereof requiring Contractor to indemnify, defend and hold harmless the State).

- 9. Administrative Fee and Reporting.** Contractor must pay an administrative fee of 1% on all payments made to Contractor under the Contract including transactions with the State (including its departments, divisions, agencies, offices, and commissions), MiDEAL members, and other states (including governmental subdivisions and authorized entities). Administrative fee payments must be made by check payable to the State of Michigan and mailed to:

Department of Technology, Management and Budget
Cashiering
P.O. Box 30681
Lansing, MI 48909

Contractor must submit an itemized purchasing activity report, which includes at a minimum, the name of the purchasing entity and the total dollar volume in sales. Reports should be mailed to MiDeal@michigan.gov.

The administrative fee and purchasing activity report are due within 30 calendar days from the last day of each calendar quarter.

- 10. Extended Purchasing Program.** This contract is extended to MiDEAL members. MiDEAL members include local units of government, school districts, universities, community colleges, and nonprofit hospitals. A current list of MiDEAL members is available at www.michigan.gov/mideal. Upon written agreement between the State and Contractor, this contract may also be extended to: (a) State of Michigan employees and (b) other states (including governmental subdivisions and authorized entities).

If extended, Contractor must supply all Contract Activities at the established Contract prices and terms. The State reserves the right to impose an administrative fee and negotiate additional discounts based on any increased volume generated by such extensions.

Contractor must submit invoices to, and receive payment from, extended purchasing program members on a direct and individual basis.

- 11. Independent Contractor.** Contractor is an independent contractor and assumes all rights, obligations and liabilities set forth in this Contract. Contractor, its employees, and agents will not be considered employees of the State. No partnership or joint venture relationship is created by virtue of this Contract. Contractor, and not the State, is responsible for the payment of wages, benefits and taxes of Contractor's employees and any subcontractors. Prior performance does not modify Contractor's status as an independent contractor.
- 12. Intellectual Property Rights.** Contractor hereby acknowledges that the State is and will be the sole and exclusive owner of all right, title, and interest in the Work Product produced as part of the Contract Activities, and all associated intellectual property rights, if any. In general, Work Product constitutes works made for hire as defined in Section 101 of the Copyright Act of 1976. To the extent any Work Product, and related intellectual property do not qualify as works made for hire under the Copyright Act, Contractor will, and hereby does, immediately on its creation, assign, transfer and otherwise convey to the State, irrevocably and in perpetuity, throughout the universe, all right, title and interest in and to the Work Product, including all intellectual property rights therein. Contractor also irrevocably waives any and all claims Contractor may have now or hereafter have in any jurisdiction to so called "moral rights" or rights of *droit moral* with respect to the Work Product. If Contract Activities includes the purchase or use of software, such purchase, use, or access to Software will be subject to **Schedules B and C or D** of this Contract.
- 13. Subcontracting.** Contractor will not, without the prior written approval of the State, which consent may be given or withheld in the State's sole discretion, engage any Third Party to perform Services. The State's approval of any such Third Party (each approved Third Party, a "**Permitted Subcontractor**") does not relieve Contractor of its representations, warranties or obligations under this Contract. Without limiting the foregoing, Contractor will: (a) be responsible and liable for the acts and omissions of each such Permitted Subcontractor (including such Permitted Subcontractor's employees who, to the extent providing Services or Deliverables, shall be deemed Contractor Personnel) to the same extent as if such acts or omissions were by Contractor or its employees; (b) name the State a third party beneficiary under Contractor's Contract with each Permitted Subcontractor with respect to the Services; (c) be responsible for all fees and expenses payable to, by or on behalf of each Permitted Subcontractor in connection with this Contract, including, if applicable, withholding of income taxes, and the payment and withholding of social security and other payroll taxes, unemployment insurance, workers' compensation insurance payments and disability benefits; and (d) notify the State of the location of the Permitted Subcontractor and indicate if it is located within the continental United States.
- 14. Staffing.** Contractor is solely responsible for all Contractor Personnel and for the payment of their compensation, including, if applicable, withholding of income taxes, and the payment and withholding of

social security and other payroll taxes, unemployment insurance, workers' compensation insurance payments and disability benefits. The State's Contract Administrator may require Contractor to remove or reassign personnel by providing a notice to Contractor.

- 15. Key Personnel.** If, in the sole discretion of the State, Key Personnel are required to complete the Contract Activities, such Key Personnel shall be identified in **Schedule A - Statement of Work**. The State has the right to recommend and approve in writing the initial assignment, as well as any proposed reassignment or replacement, of any Key Personnel. Before assigning an individual to any Key Personnel position, Contractor will notify the State of the proposed assignment, introduce the individual to the State's Program Manager, and provide the State with a resume and any other information about the individual reasonably requested by the State. The State reserves the right to interview the individual before granting written approval. In the event the State finds a proposed individual unacceptable, the State will provide a written explanation including reasonable detail outlining the reasons for the rejection.

Contractor will not remove any Key Personnel from their assigned roles on this Contract without the prior written consent of the State. The Contractor's removal of Key Personnel without the prior written consent of the State is an unauthorized removal ("**Unauthorized Removal**"). An Unauthorized Removal does not include replacing Key Personnel for reasons beyond the reasonable control of Contractor, including illness, disability, leave of absence, personal emergency circumstances, resignation, or for cause termination of the Key Personnel's employment. Any Unauthorized Removal may be considered by the State to be a material breach of this Contract, in respect of which the State may elect to terminate this Contract for cause under **Section 28**.

It is further acknowledged that an Unauthorized Removal will interfere with the timely and proper completion of this Contract, to the loss and damage of the State, and that it would be impracticable and extremely difficult to fix the actual damage sustained by the State as a result of any Unauthorized Removal. Therefore, Contractor and the State agree that in the case of any Unauthorized Removal in respect of which the State does not elect to exercise its rights under **Section 28**, Contractor will issue to the State an amount set forth in **Schedule A – Statement of Work** (each, an "**Unauthorized Removal Credit**").

- 16. Background Checks.** Pursuant to Michigan law, all agencies subject to IRS Pub. 1075 are required to ask the Michigan State Police to perform fingerprint background checks on all employees, including Contractor and Subcontractor employees, who may have access to any database of information maintained by the federal government that contains confidential or personal information, including, but not limited to, federal tax information. Further, pursuant to Michigan law, any agency described above is prohibited from providing Contractors or Subcontractors with the result of such background check. For more information, please see Michigan Public Act 427 of 2018. Upon request, Contractor must perform background checks on all employees and subcontractors and its employees prior to their assignment. The scope is at the discretion of the State and documentation must be provided as requested. Contractor is responsible for all costs associated with the requested background checks. The State, in its sole discretion, may also perform background checks.
- 17. Assignment.** Contractor may not assign this Contract to any other party without the prior approval of the State. Upon notice to Contractor, the State, in its sole discretion, may assign in whole or in part, its rights or responsibilities under this Contract to any other party. If the State determines that a novation of the Contract to a third party is necessary, Contractor will agree to the novation and provide all necessary documentation and signatures.
- 18. Change of Control.** Contractor will notify within 30 days of any public announcement, or otherwise once legally permitted to do so, the State of a change in Contractor's organizational structure or ownership. For purposes of this Contract, a change in control means any of the following: (a) a sale of more than 50% of Contractor's stock; (b) a sale of substantially all of Contractor's assets; (c) a change in a majority of Contractor's board members; (d) consummation of a merger or consolidation of Contractor with any other

entity; (e) a change in ownership through a transaction or series of transactions; (f) or the board (or the stockholders) approves a plan of complete liquidation. A change of control does not include any consolidation or merger effected exclusively to change the domicile of Contractor, or any transaction or series of transactions principally for bona fide equity financing purposes.

In the event of a change of control, Contractor must require the successor to assume this Contract and all of its obligations under this Contract.

- 19. Ordering.** Contractor is not authorized to begin performance until receipt of authorization as identified in Schedule A.
- 20. Acceptance.** Contract Activities are subject to inspection and testing by the State within 30 calendar days of the State's receipt of them ("**State Review Period**"), unless otherwise provided in Schedule A. If the Contract Activities are not fully accepted by the State, the State will notify Contractor by the end of the State Review Period that either: (a) the Contract Activities are accepted, but noted deficiencies must be corrected; or (b) the Contract Activities are rejected. If the State finds material deficiencies, it may: (i) reject the Contract Activities without performing any further inspections; (ii) demand performance at no additional cost; or (iii) terminate this Contract in accordance with **Section 28**, Termination for Cause.

Within 10 business days from the date of Contractor's receipt of notification of acceptance with deficiencies or rejection of any Contract Activities, Contractor must cure, at no additional cost, the deficiency and deliver unequivocally acceptable Contract Activities to the State. If acceptance with deficiencies or rejection of the Contract Activities impacts the content or delivery of other non-completed Contract Activities, the parties' respective Program Managers must determine an agreed to number of days for re-submission that minimizes the overall impact to the Contract. However, nothing herein affects, alters, or relieves Contractor of its obligations to correct deficiencies in accordance with the time response standards set forth in this Contract.

If Contractor is unable or refuses to correct the deficiency within the time response standards set forth in this Contract, the State may cancel the order in whole or in part. The State, or a third party identified by the State, may perform the Contract Activities and recover the difference between the cost to cure and the Contract price plus an additional 10% administrative fee.

- 21. Delivery.** Contractor must deliver all Contract Activities F.O.B. destination, within the State premises with transportation and handling charges paid by Contractor, unless otherwise specified in **Schedule A**. All containers and packaging become the State's exclusive property upon acceptance.
- 22. Risk of Loss and Title.** Until final acceptance, title and risk of loss or damage to Contract Activities remains with Contractor. Contractor is responsible for filing, processing, and collecting all damage claims. The State will record and report to Contractor any evidence of visible damage. If the State rejects the Contract Activities, Contractor must remove them from the premises within 10 calendar days after notification of rejection. The risk of loss of rejected or non-conforming Contract Activities remains with Contractor. Rejected Contract Activities not removed by Contractor within 10 calendar days will be deemed abandoned by Contractor, and the State will have the right to dispose of it as its own property. Contractor must reimburse the State for costs and expenses incurred in storing or effecting removal or disposition of rejected Contract Activities.
- 23. Warranty Period.** The warranty period, if applicable, for Contract Activities is a fixed period commencing on the date specified in **Schedule A**, and, for Software Hosted On-Site, **Schedule B**. If the Contract Activities do not function as warranted during the warranty period, the State may return such non-conforming Contract Activities to the Contractor for a full refund.
- 24. Terms of Payment.** Invoices must conform to the requirements communicated from time-to-time by the State. All undisputed amounts are payable within 45 days of the State's receipt. Contractor may only charge for Contract Activities performed as specified in **Schedule A**. Invoices must include an itemized statement

of all charges. The State is exempt from State sales tax for direct purchases and may be exempt from federal excise tax, if Services purchased under this Agreement are for the State's exclusive use. All prices are exclusive of taxes, and Contractor is responsible for all sales, use and excise taxes, and any other similar taxes, duties and charges of any kind imposed by any federal, state, or local governmental entity on any amounts payable by the State under this Contract.

The State has the right to withhold payment of any disputed amounts until the parties agree as to the validity of the disputed amount. The State will notify Contractor of any dispute within a reasonable time. Payment by the State will not constitute a waiver of any rights as to Contractor's continuing obligations, including claims for deficiencies or substandard Contract Activities. Contractor's acceptance of final payment by the State constitutes a waiver of all claims by Contractor against the State for payment under this Contract, other than those claims previously filed in writing on a timely basis and still disputed.

The State will only disburse payments under this Contract through Electronic Funds Transfer (EFT). Contractor must register with the State at <http://www.michigan.gov/SIGMAVSS> to receive electronic fund transfer payments. If Contractor does not register, the State is not liable for failure to provide payment. Without prejudice to any other right or remedy it may have, the State reserves the right to set off at any time any amount then due and owing to it by Contractor against any amount payable by the State to Contractor under this Contract.

- 25. Payment Disputes.** The State may withhold from payment any and all payments and amounts the State disputes in good faith, pending resolution of such dispute, provided that the State: (a) timely renders all payments and amounts that are not in dispute; notifies Contractor of the dispute prior to the due date for payment, specifying in such notice: (i) the amount in dispute; and (ii) the reason for the dispute set out in sufficient detail to facilitate investigation by Contractor and resolution by the parties; (b) works with Contractor in good faith to resolve the dispute promptly; and (c) promptly pays any amount determined to be payable by resolution of the dispute.

Contractor shall not withhold any Contract Activities or fail to perform any obligation hereunder by reason of the State's good faith withholding of any payment or amount in accordance with this **Section 25** or any dispute arising therefrom.

- 26. Liquidated Damages.** Liquidated damages, if applicable, will be assessed as described in **Schedule A**. Amounts due the State as liquidated damages may be set off against any Fees payable to Contractor under this Contract, or the State may bill Contractor as a separate item and Contractor will promptly make payments on such bills.
- 27. Stop Work Order.** The State may suspend any or all activities under the Contract at any time. The State will provide Contractor a written stop work order detailing the suspension. Contractor must comply with the stop work order upon receipt. Within 90 calendar days, or any longer period agreed to by Contractor, the State will either: (a) issue a notice authorizing Contractor to resume work, or (b) terminate the Contract or delivery order. The State will not pay for Contract Activities, Contractor's lost profits, or any additional compensation during a stop work period.
- 28. Termination for Cause.** The State may terminate this Contract for cause, in whole or in part, if Contractor, as determined by the State: (a) endangers the value, integrity, or security of any location, data, or personnel; (b) becomes insolvent, petitions for bankruptcy court proceedings, or has an involuntary bankruptcy proceeding filed against it by any creditor; (c) engages in any conduct that may expose the State to liability; (d) breaches any of its material duties or obligations; or (e) fails to cure a breach within the time stated in a notice of breach. Any reference to specific breaches being material breaches within this Contract will not be construed to mean that other breaches are not material.

If the State terminates this Contract under this Section, the State will issue a termination notice specifying whether Contractor must: (a) cease performance immediately, or (b) continue to perform for a specified period. If it is later determined that Contractor was not in breach of the Contract, the termination will be deemed to have been a Termination for Convenience, effective as of the same date, and the rights and obligations of the parties will be limited to those provided in **Section 29**, Termination for Convenience.

The State will only pay for amounts due to Contractor for Contract Activities accepted by the State on or before the date of termination, subject to the State's right to set off any amounts owed by the Contractor for the State's reasonable costs in terminating this Contract. The Contractor must pay all reasonable costs incurred by the State in terminating this Contract for cause, including administrative costs, attorneys' fees, court costs, transition costs, and any costs the State incurs to procure the Contract Activities from other sources.

- 29. Termination for Convenience.** The State may immediately terminate this Contract in whole or in part without penalty and for any reason, including but not limited to, appropriation or budget shortfalls. The termination notice will specify whether Contractor must: (a) cease performance of the Contract Activities immediately, or (b) continue to perform the Contract Activities in accordance with Section 30, Transition Responsibilities. If the State terminates this Contract for convenience, the State will pay all reasonable costs, as determined by the State, for State approved Transition Responsibilities.
- 30. Effect of Termination.** Upon and after the termination or expiration of this Contract or one or more Statements of Work for any or no reason: (a) Contractor will be obligated to perform all Transition Responsibilities specified in **Section 31**; (b) all licenses granted to Contractor in State Data will immediately and automatically also terminate. Contractor must promptly return to the State all State Data not required by Contractor for its Transition Responsibilities, if any; (c) Contractor will: (i) return to the State all documents and tangible materials (and any copies) containing, reflecting, incorporating, or based on the State's Confidential Information; (ii) permanently erase the State's Confidential Information from its computer systems; and (iii) certify in writing to the State that it has complied with the requirements of this **Section 30** in each case to the extent such materials are not required by Contractor for Transition Responsibilities, if any.
- 31. Transition Responsibilities.** Upon termination or expiration of this Contract for any reason, Contractor must, for a period of time specified by the State (not to exceed 90 calendar days, "**Transition Period**"), provide all reasonable transition assistance requested by the State, to allow for the expired or terminated portion of the Contract Activities to continue without interruption or adverse effect, and to facilitate the orderly transfer of such Contract Activities to the State or its designees. Such transition assistance may include, but is not limited to: (a) continuing to perform the Contract Activities at the established Contract rates; (b) taking all reasonable and necessary measures to transition performance of the work, including all applicable Contract Activities, training, equipment, software, leases, reports and other documentation, to the State or the State's designee; (c) taking all necessary and appropriate steps, or such other action as the State may direct, to preserve, maintain, protect, or return to the State all materials, data, property, and confidential information provided directly or indirectly to Contractor by any entity, agent, vendor, or employee of the State; (d) transferring title in and delivering to the State, at the State's discretion, all completed or partially completed deliverables prepared under this Contract as of the Contract termination date; and (e) preparing an accurate accounting from which the State and Contractor may reconcile all outstanding accounts (collectively, "**Transition Responsibilities**"). This Contract will automatically be extended through the end of the transition period.
- 32. General Indemnification.** Contractor must defend, indemnify and hold the State, its departments, divisions, agencies, offices, commissions, officers, and employees harmless, without limitation, from and against any and all actions, claims, losses, liabilities, damages, costs, attorney fees, and expenses (including those required to establish the right to indemnification), arising out of or relating to: (a) any breach by Contractor (or any of Contractor's employees, agents, subcontractors, or by anyone else for whose acts any of them

may be liable) of any of the promises, agreements, representations, warranties, or insurance requirements contained in this Contract; (b) any infringement, misappropriation, or other violation of any intellectual property right or other right of any third party; (c) any bodily injury, death, or damage to real or tangible personal property occurring wholly or in part due to action or inaction by Contractor (or any of Contractor's employees, agents, subcontractors, or by anyone else for whose acts any of them may be liable); and (d) any acts or omissions of Contractor (or any of Contractor's employees, agents, subcontractors, or by anyone else for whose acts any of them may be liable).

The State will notify Contractor in writing if indemnification is sought; however, failure to do so will not relieve Contractor, except to the extent that Contractor is materially prejudiced. Contractor must, to the satisfaction of the State, demonstrate its financial ability to carry out these obligations.

The State is entitled to: (i) regular updates on proceeding status; (ii) participate in the defense of the proceeding; (iii) employ its own counsel; and to (iv) retain control of the defense if the State deems necessary. Contractor will not, without the State's written consent (not to be unreasonably withheld), settle, compromise, or consent to the entry of any judgment in or otherwise seek to terminate any claim, action, or proceeding. To the extent that any State employee, official, or law may be involved or challenged, the State may, at its own expense, control the defense of that portion of the claim.

Any litigation activity on behalf of the State, or any of its subdivisions under this Section, must be coordinated with the Department of Attorney General. An attorney designated to represent the State may not do so until approved by the Michigan Attorney General and appointed as a Special Assistant Attorney General.

- 33. Infringement Remedies.** If, in either party's opinion, any piece of equipment, software, commodity, or service supplied by Contractor or its subcontractors, or its operation, use or reproduction, is likely to become the subject of a copyright, patent, trademark, or trade secret infringement claim, Contractor must, at its expense: (a) procure for the State the right to continue using the equipment, software, commodity, or service, or if this option is not reasonably available to Contractor, (b) replace or modify the same so that it becomes non-infringing; or (c) accept its return by the State with appropriate credits to the State against Contractor's charges and reimburse the State for any losses or costs incurred as a consequence of the State ceasing its use and returning it.
- 34. Limitation of Liability and Disclaimer of Damages.** THE STATE WILL NOT BE LIABLE, REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY OR BY STATUTE OR OTHERWISE, FOR ANY CLAIM RELATED TO OR ARISING UNDER THIS CONTRACT FOR CONSEQUENTIAL, INCIDENTAL, INDIRECT, OR SPECIAL DAMAGES, INCLUDING WITHOUT LIMITATION LOST PROFITS AND LOST BUSINESS OPPORTUNITIES. IN NO EVENT WILL THE STATE'S AGGREGATE LIABILITY TO CONTRACTOR UNDER THIS CONTRACT, REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY OR BY STATUTE OR OTHERWISE, FOR ANY CLAIM RELATED TO OR ARISING UNDER THIS CONTRACT, EXCEED THE MAXIMUM AMOUNT OF FEES PAYABLE UNDER THIS CONTRACT.
- 35. Disclosure of Litigation, or Other Proceeding.** Contractor must notify the State within 14 calendar days of receiving notice of any litigation, investigation, arbitration, or other proceeding (collectively, "**Proceeding**") involving Contractor, a subcontractor, or an officer or director of Contractor or subcontractor, that arises during the term of the Contract, including: (a) a criminal Proceeding; (b) a parole or probation Proceeding; (c) a Proceeding under the Sarbanes-Oxley Act; (d) a civil Proceeding involving: (1) a claim that might reasonably be expected to adversely affect Contractor's viability or financial stability; or (2) a governmental or public entity's claim or written allegation of fraud; or (e) a Proceeding involving any license that Contractor is required to possess in order to perform under this Contract.
- 36. Reserved.**

37. State Data. If the Contract Activities includes the hosting of State Data with Contractor or Permitted Subcontractors, Contractor must also comply with **Schedule F – Data Security Requirements** of this Contract

- a. Ownership. The State's data ("**State Data**," which will be treated by Contractor as Confidential Information) includes: (a) the State's data collected, used, processed, stored, or generated as the result of the Contract Activities; (b) personally identifiable information ("**PII**") collected, used, processed, stored, or generated as the result of the Contract Activities, including, without limitation, any information that identifies an individual, such as an individual's social security number or other government-issued identification number, date of birth, address, telephone number, biometric data, mother's maiden name, email address, credit card information, or an individual's name in combination with any other of the elements here listed; and, (c) personal health information ("**PHI**") collected, used, processed, stored, or generated as the result of the Contract Activities, which is defined under the Health Insurance Portability and Accountability Act (HIPAA) and its related rules and regulations. State Data is and will remain the sole and exclusive property of the State and all right, title, and interest in the same is reserved by the State. This Section survives the termination of this Contract.
- b. Contractor Use of State Data. Contractor is provided a limited license to State Data for the sole and exclusive purpose of providing the Contract Activities, including a license to collect, process, store, generate, and display State Data only to the extent necessary in the provision of the Contract Activities. Contractor must: (a) keep and maintain State Data in strict confidence, using such degree of care as is appropriate and consistent with its obligations as further described in this Contract and applicable law to avoid unauthorized access, use, disclosure, or loss; (b) use and disclose State Data solely and exclusively for the purpose of providing the Contract Activities, such use and disclosure being in accordance with this Contract, any applicable Statement of Work, and applicable law; and (c) not use, sell, rent, transfer, distribute, or otherwise disclose or make available State Data for Contractor's own purposes or for the benefit of anyone other than the State without the State's prior written consent. This Section survives the termination of this Contract.
- c. Extraction of State Data. Contractor must, within five (5) business days of the State's request, provide the State, without charge and without any conditions or contingencies whatsoever (including but not limited to the payment of any fees due to Contractor), an extract of the State Data in the format specified by the State.
- d. Backup and Recovery of State Data. Unless otherwise specified in Schedule A, Contractor is responsible for maintaining a backup of State Data and for an orderly and timely recovery of such data. Unless otherwise described in Schedule A, Contractor must maintain a contemporaneous backup of State Data that can be recovered within two (2) hours at any point in time.
- e. Loss or Compromise of Data. In the event of any act, error or omission, negligence, misconduct, or breach on the part of Contractor that compromises or is suspected to compromise the security, confidentiality, or integrity of State Data or the physical, technical, administrative, or organizational safeguards put in place by Contractor that relate to the protection of the security, confidentiality, or integrity of State Data, Contractor must, as applicable: (a) notify the State as soon as practicable but no later than twenty-four (24) hours of becoming aware of such occurrence; (b) cooperate with the State in investigating the occurrence, including making available all relevant records, logs, files, data reporting, and other materials required to comply with applicable law or as otherwise required by the State; (c) in the case of PII or PHI, at the State's sole election, (i) with approval and assistance from the State, notify the affected individuals who comprise the PII or PHI as soon as practicable but no later than is required to comply with applicable law, or, in the absence of any legally required notification period, within five (5) calendar days of the occurrence; or (ii) reimburse the State for any costs in notifying the affected individuals; (d) in the case of PII, provide third-party credit and identity monitoring services to each of the affected individuals who comprise the PII for the period required to comply with applicable law, or, in the absence of any legally

required monitoring services, for no less than twenty-four (24) months following the date of notification to such individuals; (e) perform or take any other actions required to comply with applicable law as a result of the occurrence; (f) pay for any costs associated with the occurrence, including but not limited to any costs incurred by the State in investigating and resolving the occurrence, including reasonable attorney's fees associated with such investigation and resolution; (g) without limiting Contractor's obligations of indemnification as further described in this Contract, indemnify, defend, and hold harmless the State for any and all claims, including reasonable attorneys' fees, costs, and incidental expenses, which may be suffered by, accrued against, charged to, or recoverable from the State in connection with the occurrence; (h) be responsible for recreating lost State Data in the manner and on the schedule set by the State without charge to the State; and (i) provide to the State a detailed plan within ten (10) calendar days of the occurrence describing the measures Contractor will undertake to prevent a future occurrence. Notification to affected individuals, as described above, must comply with applicable law, be written in plain language, not be tangentially used for any solicitation purposes, and contain, at a minimum: name and contact information of Contractor's representative; a description of the nature of the loss; a list of the types of data involved; the known or approximate date of the loss; how such loss may affect the affected individual; what steps Contractor has taken to protect the affected individual; what steps the affected individual can take to protect himself or herself; contact information for major credit card reporting agencies; and, information regarding the credit and identity monitoring services to be provided by Contractor. The State will have the option to review and approve any notification sent to affected individuals prior to its delivery. Notification to any other party, including but not limited to public media outlets, must be reviewed and approved by the State in writing prior to its dissemination. The parties agree that any damages relating to a breach of this **Section** Error! Reference source not found. are to be considered direct damages and not consequential damages. This section survives termination or expiration of this Contract.

- f. State's Governance, Risk and Compliance (GRC) platform, if applicable. If the Contract Activities includes the purchase, use, or access to software, Contractor is required to assist the State with its security accreditation process through the development, completion and ongoing updating of a system security plan using the State's automated GRC platform, and implement any required safeguards or remediate any security vulnerabilities as identified by the results of the security accreditation process.
- g. Compliance with IRS Pub 1075. If the Contract Activities includes access to, or the hosting of, any tax information, Contractor must also comply with the applicable requirements of IRS Publication 1075, **Schedule G – Exhibit 7 Safeguarding Contract Language** and **Schedule H – Safeguard Requirements of Confidential Tax Data.**

38. Non-Disclosure of Confidential Information. The parties acknowledge that each party may be exposed to or acquire communication or data of the other party that is confidential, privileged communication not intended to be disclosed to third parties. The provisions of this Section survive the termination of this Contract.

- a. Meaning of Confidential Information. For the purposes of this Contract, the term "**Confidential Information**" means all information and documentation of a party that: (a) has been marked "confidential" or with words of similar meaning, at the time of disclosure by such party; (b) if disclosed orally or not marked "confidential" or with words of similar meaning, was subsequently summarized in writing by the disclosing party and marked "confidential" or with words of similar meaning; and, (c) should reasonably be recognized as confidential information of the disclosing party. The term "Confidential Information" does not include any information or documentation that was: (a) subject to disclosure under the Michigan Freedom of Information Act (FOIA); (b) already in the possession of the receiving party without an obligation of confidentiality; (c) developed independently by the receiving party, as demonstrated by the receiving party, without violating the disclosing party's proprietary rights; (d) obtained from a source other than the disclosing party without an obligation of confidentiality; or, (e) publicly available when received, or thereafter became publicly available (other than through any unauthorized disclosure by, through, or

on behalf of, the receiving party). For purposes of this Contract, in all cases and for all matters, State Data is deemed to be Confidential Information.

- b. Obligation of Confidentiality. The parties agree to hold all Confidential Information in strict confidence and not to copy, reproduce, sell, transfer, or otherwise dispose of, give or disclose such Confidential Information to third parties other than employees, agents, or subcontractors of a party who have a need to know in connection with this Contract or to use such Confidential Information for any purposes whatsoever other than the performance of this Contract. The parties agree to advise and require their respective employees, agents, and subcontractors of their obligations to keep all Confidential Information confidential. Disclosure to a subcontractor is permissible where: (a) use of a subcontractor is authorized under this Contract; (b) the disclosure is necessary or otherwise naturally occurs in connection with work that is within the subcontractor's responsibilities; and (c) Contractor obligates the subcontractor in a written contract to maintain the State's Confidential Information in confidence. At the State's request, any employee of Contractor or any subcontractor may be required to execute a separate agreement to be bound by the provisions of this Section.
- c. Cooperation to Prevent Disclosure of Confidential Information. Each party must use its best efforts to assist the other party in identifying and preventing any unauthorized use or disclosure of any Confidential Information. Without limiting the foregoing, each party must advise the other party immediately in the event either party learns or has reason to believe that any person who has had access to Confidential Information has violated or intends to violate the terms of this Contract and each party will cooperate with the other party in seeking injunctive or other equitable relief against any such person.
- d. Remedies for Breach of Obligation of Confidentiality. Each party acknowledges that breach of its obligation of confidentiality may give rise to irreparable injury to the other party, which damage may be inadequately compensable in the form of monetary damages. Accordingly, a party may seek and obtain injunctive relief against the breach or threatened breach of the foregoing undertakings, in addition to any other legal remedies which may be available, to include, in the case of the State, at the sole election of the State, the immediate termination, without liability to the State, of this Contract or any Statement of Work corresponding to the breach or threatened breach.
- e. Surrender of Confidential Information upon Termination. Upon termination of this Contract or a Statement of Work, in whole or in part, each party must, within 5 calendar days from the date of termination, return to the other party any and all Confidential Information received from the other party, or created or received by a party on behalf of the other party, which are in such party's possession, custody, or control; provided, however, that Contractor must return State Data to the State following the timeframe and procedure described further in this Contract. Should Contractor or the State determine that the return of any Confidential Information is not feasible, such party must destroy the Confidential Information and must certify the same in writing within 5 calendar days from the date of termination to the other party. However, the State's legal ability to destroy Contractor data may be restricted by its retention and disposal schedule, in which case Contractor's Confidential Information will be destroyed after the retention period expires.

39. Data Privacy and Information Security.

- a. Undertaking by Contractor. Without limiting Contractor's obligation of confidentiality as further described, Contractor is responsible for establishing and maintaining a data privacy and information security program, including physical, technical, administrative, and organizational safeguards, that is designed to: (a) ensure the security and confidentiality of the State Data; (b) protect against any anticipated threats or hazards to the security or integrity of the State Data; (c) protect against unauthorized disclosure, access to, or use of the State Data; (d) ensure the proper disposal of State Data; and (e) ensure that all employees, agents, and subcontractors of Contractor, if any, comply with all of the foregoing. In no case will the safeguards of Contractor's data privacy and information security program be less stringent than

the safeguards used by the State, and Contractor must at all times comply with all applicable State IT policies and standards, which are available to Contractor upon request.

- b. Audit by Contractor. No less than annually, Contractor must conduct a comprehensive independent third-party audit of its data privacy and information security program and provide such audit findings to the State.
- c. Right of Audit by the State. Without limiting any other audit rights of the State, the State has the right to review Contractor's data privacy and information security program prior to the commencement of Contract Activities and from time to time during the term of this Contract. During the providing of the Contract Activities, on an ongoing basis from time to time and without notice, the State, at its own expense, is entitled to perform, or to have performed, an on-site audit of Contractor's data privacy and information security program. In lieu of an on-site audit, upon request by the State, Contractor agrees to complete, within 45 calendar days of receipt, an audit questionnaire provided by the State regarding Contractor's data privacy and information security program.
- d. Audit Findings. Contractor must implement any required safeguards as identified by the State or by any audit of Contractor's data privacy and information security program.
- e. State's Right to Termination for Deficiencies. The State reserves the right, at its sole election, to immediately terminate this Contract or a Statement of Work without limitation and without liability if the State determines that Contractor fails or has failed to meet its obligations under this Section.

40. Reserved.

41. Reserved.

42. Records Maintenance, Inspection, Examination, and Audit. The State or its designee may audit Contractor to verify compliance with this Contract. Contractor must retain and provide to the State or its designee and the auditor general upon request, all financial and accounting records related to the Contract through the term of the Contract and for 4 years after the latter of termination, expiration, or final payment under this Contract or any extension ("**Audit Period**"). If an audit, litigation, or other action involving the records is initiated before the end of the Audit Period, Contractor must retain the records until all issues are resolved.

Within 10 calendar days of providing notice, the State and its authorized representatives or designees have the right to enter and inspect Contractor's premises or any other places where Contract Activities are being performed, and examine, copy, and audit all records related to this Contract. Contractor must cooperate and provide reasonable assistance. If any financial errors are revealed, the amount in error must be reflected as a credit or debit on subsequent invoices until the amount is paid or refunded. Any remaining balance at the end of the Contract must be paid or refunded within 45 calendar days.

This Section applies to Contractor, any parent, affiliate, or subsidiary organization of Contractor, and any subcontractor that performs Contract Activities in connection with this Contract.

43. Warranties and Representations. Contractor represents and warrants: (a) Contractor is the owner or licensee of any Contract Activities that it licenses, sells, or develops and Contractor has the rights necessary to convey title, ownership rights, or licensed use; (b) Contractor will perform the Contract Activities in a timely, professional, safe, and workmanlike manner consistent with standards in the trade, profession, or industry; (c) Contractor will meet or exceed the performance and operational standards, and specifications of the Contract; (d) Contractor will provide all Contract Activities in good quality, with no material defects; (d) Contractor will not interfere with the State's operations; (e) all Contract Activities are delivered free from any security interest, lien, or encumbrance and will continue in that respect; (f) the Contract Activities will not

infringe the patent, trademark, copyright, trade secret, or other proprietary rights of any third party; (g) Contractor must assign or otherwise transfer to the State or its designee any manufacturer's warranty for the Contract Activities; (h) the Contract Activities are merchantable and fit for the specific purposes identified in the Contract; (g) the Contract signatory has the authority to enter into this Contract; (h) all information furnished by Contractor in connection with the Contract fairly and accurately represents Contractor's business, properties, finances, and operations as of the dates covered by the information, and Contractor will inform the State of any material adverse changes; (i) all information furnished and representations made in connection with the award of this Contract is true, accurate, and complete, and contains no false statements or omits any fact that would make the information misleading; and that (j) Contractor is neither currently engaged in nor will engage in the boycott of a person based in or doing business with a strategic partner as described in 22 USC 8601 to 8606. A breach of this Section is considered a material breach of this Contract, which entitles the State to terminate this Contract under **Section 28**, Termination for Cause. If Contract Activities includes purchase, use, or access to software, Contractor must agree to additional Warranties and Representations found in **Schedules B or D** of this Contract, as applicable.

- 44. Conflicts and Ethics.** Contractor will uphold high ethical standards and is prohibited from: (a) holding or acquiring an interest that would conflict with this Contract; (b) doing anything that creates an appearance of impropriety with respect to the award or performance of the Contract; (c) attempting to influence or appearing to influence any State employee by the direct or indirect offer of anything of value; or (d) paying or agreeing to pay any person, other than employees and consultants working for Contractor, any consideration contingent upon the award of the Contract. Contractor must immediately notify the State of any violation or potential violation of these standards. This Section applies to Contractor, any parent, affiliate, or subsidiary organization of Contractor, and any subcontractor that performs Contract Activities in connection with this Contract.
- 45. Compliance with Laws.** Contractor must comply with all federal, state and local laws, rules and regulations.
- 46. ADA Compliance.** The State is required to comply with the Americans with Disabilities Act of 1990 (ADA), and has adopted a formal policy regarding accessibility requirements for websites and software applications. Contractor's Service Software must comply, where relevant, with level AA of the World Wide Web Consortium (W3C) Web Content Accessibility Guidelines (WCAG) 2.0.
- 47. HIPAA Compliance.** The State and Contractor must comply with all obligations under HIPAA and its accompanying regulations, including but not limited to entering into a business associate agreement, if reasonably necessary to keep the State and Contractor in compliance with HIPAA.
- 48. Reserved.**
- 49. Reserved.**
- 50. Nondiscrimination.** Under the Elliott-Larsen Civil Rights Act, 1976 PA 453, MCL 37.2101, *et seq.*, the Persons with Disabilities Civil Rights Act, 1976 PA 220, MCL 37.1101, *et seq.*, and [Executive Directive 2019-09](#). Contractor and its subcontractors agree not to discriminate against an employee or applicant for employment with respect to hire, tenure, terms, conditions, or privileges of employment, or a matter directly or indirectly related to employment, because of race, color, religion, national origin, age, sex (as defined in Executive Directive 2019-09), height, weight, marital status, partisan considerations, any mental or physical disability, or genetic information that is unrelated to the person's ability to perform the duties of a particular job or position. Breach of this covenant is a material breach of this Contract.
- 51. Unfair Labor Practice.** Under MCL 423.324, the State may void any Contract with a Contractor or subcontractor who appears on the Unfair Labor Practice register compiled under MCL 423.322.

- 52. Governing Law.** This Contract is governed, construed, and enforced in accordance with Michigan law, excluding choice-of-law principles, and all claims relating to or arising out of this Contract are governed by Michigan law, excluding choice-of-law principles. Any dispute arising from this Contract must be resolved in Michigan Court of Claims. Contractor consents to venue in Ingham County, and waives any objections, such as lack of personal jurisdiction or *forum non conveniens*. Contractor must appoint agents in Michigan to receive service of process.
- 53. Non-Exclusivity.** Nothing contained in this Contract is intended nor will be construed as creating any requirements contract with Contractor. This Contract does not restrict the State or its agencies from acquiring similar, equal, or like Contract Activities from other sources.
- 54. Force Majeure.** Neither party will be in breach of this Contract because of any failure arising from any disaster or acts of god that are beyond their control and without their fault or negligence. Each party will use commercially reasonable efforts to resume performance. Contractor will not be relieved of a breach or delay caused by its subcontractors. If immediate performance is necessary to ensure public health and safety, the State may immediately contract with a third party.
- 55. Dispute Resolution.** The parties will endeavor to resolve any Contract dispute in accordance with this provision. The dispute will be referred to the parties' respective Contract Administrators or Program Managers. Such referral must include a description of the issues and all supporting documentation. The parties must submit the dispute to a senior executive if unable to resolve the dispute within 15 business days. The parties will continue performing while a dispute is being resolved, unless the dispute precludes performance. A dispute involving payment does not preclude performance.
- Litigation to resolve the dispute will not be instituted until after the dispute has been elevated to the parties' senior executive and either concludes that resolution is unlikely or fails to respond within 15 business days. The parties are not prohibited from instituting formal proceedings: (a) to avoid the expiration of statute of limitations period; (b) to preserve a superior position with respect to creditors; or (c) where a party makes a determination that a temporary restraining order or other injunctive relief is the only adequate remedy. This Section does not limit the State's right to terminate the Contract.
- 56. Media Releases.** News releases (including promotional literature and commercial advertisements) pertaining to the Contract or project to which it relates must not be made without prior written State approval, and then only in accordance with the explicit written instructions of the State.
- 57. Website Incorporation.** The State is not bound by any content on Contractor's website unless expressly incorporated directly into this Contract.
- 58. Schedules.** All Schedules and Exhibits that are referenced herein and attached hereto are hereby incorporated by reference. The following Schedules are attached hereto and incorporated herein:

Schedule A	Statement of Work
Schedule B	Pricing and Fees
Schedule C	MDOC Service Level Agreements
Schedule D	Reserved
Schedule E	Contractor Hosted Software and Services

Exhibit 1 to Schedule E

Support Services and Service
Level Agreement for Hosted
Services

Schedule F

Data Security Requirements

Exhibit 1 to Schedule F

Contractor's Disaster Recovery
Plan

Schedule G

Reserved

Schedule H

Reserved.

Schedule I

Federal Provisions Addendum

- 59. Entire Agreement and Order of Precedence.** This Contract, which includes Schedule A – Statement of Work, and schedules and exhibits which are hereby expressly incorporated, is the entire agreement of the parties related to the Contract Activities. This Contract supersedes and replaces all previous understandings and agreements between the parties for the Contract Activities. If there is a conflict between documents, the order of precedence is: (a) first, this Contract, excluding its schedules, exhibits, and Schedule A – Statement of Work; (b) second, Schedule A – Statement of Work as of the Effective Date; and (c) third, schedules expressly incorporated into this Contract as of the Effective Date. NO TERMS ON CONTRACTOR'S INVOICES, ORDERING DOCUMENTS, WEBSITE, BROWSE-WRAP, SHRINK-WRAP, CLICK-WRAP, CLICK-THROUGH OR OTHER NON-NEGOTIATED TERMS AND CONDITIONS PROVIDED WITH ANY OF THE CONTRACT ACTIVITIES WILL CONSTITUTE A PART OR AMENDMENT OF THIS CONTRACT OR IS BINDING ON THE STATE OR ITS AUTHORIZED USERS FOR ANY PURPOSE. ALL SUCH OTHER TERMS AND CONDITIONS HAVE NO FORCE AND EFFECT AND ARE DEEMED REJECTED BY THE STATE, EVEN IF ACCESS TO OR USE OF THE CONTRACT ACTIVITIES REQUIRES AFFIRMATIVE ACCEPTANCE OF SUCH TERMS AND CONDITIONS.
- 60. Severability.** If any part of this Contract is held invalid or unenforceable, by any court of competent jurisdiction, that part will be deemed deleted from this Contract and the severed part will be replaced by agreed upon language that achieves the same or similar objectives. The remaining Contract will continue in full force and effect.
- 61. Waiver.** Failure to enforce any provision of this Contract will not constitute a waiver.
- 62. Survival.** The provisions of this Contract that impose continuing obligations, including warranties and representations, termination, transition, insurance coverage, indemnification, and confidentiality, will survive the expiration or termination of this Contract.

STATE OF MICHIGAN

Request For Proposal No. 200000001688
Work Skills Readiness Assessment for MDE and MDOC

SCHEDULE C MDOC Service Level Agreements



Agency/Vendor: Works Skills Readiness Assessment
Contract #: TBD
Effective Date: TBD

Metric 1. Delivery:
Definition and Purpose
Delivery will be expected within 10 business days upon date of order. Delivery will be made at the address on delivery order, in accordance with Schedule A Statement of Work – General Requirements; Contract Standard 2.2 Delivery.
Data Source:
Delivery Order from MDOC location(s) Deliverables received
Methodology:
Comparison of Delivery Order request to Deliverables received. If any exceptions to the timeline are preapproved by Program Manager
Acceptable Standard:
Deliverables received within 10 business days from order request. The acceptable standard is 100% of orders requested.
Service Level Credit
The MDOC may assess a 20% credit of the request order for each set of testing materials not received within 10 business days of order request. Extenuating circumstances will be reviewed by the MDOC Contract Manager before any Service Credits are assessed.



Agency/Vendor: Work Skills Readiness Assessment
Contract #: TBD
Effective Date: TBD

Metric 2. Security:
Definition and Purpose
Contractor staff that provide direct services to offenders (prisoner, parolee, probationer), handle or may have access to offender records, or provides supervisory services to staff performing these functions, must complete the Law Enforcement Information Network (LEIN) Form at the start of the contract and annually thereafter, as directed by the Michigan Department of Corrections. This is in accordance with Schedule A Statement of Work – General Requirements; Contract Standard 4.10.A.3 Security.
Data Source:
The completed LEIN Information Form must be sent to the MDOC-PMCD-FOA-LEINS@michigan.gov and approved by MDOC prior to Contract staff working with MDOC offenders.
Methodology:
Comparison of Contractor staff to LEIN Information Forms approved. If any exceptions to the timeline are preapproved by Program Manager
Acceptable Standard:
Receiving all completed LEIN Information Forms for all Contractor staff prior to the start of Contract activities and annually thereafter. The acceptable standard is 100% of LEIN Information Forms approved prior to working with MDOC offenders.
Service Level Credit
The MDOC may assess a \$500 credit for each LEIN Information Form not approved for Contractor staff prior to the start of Contract activities and annually thereafter. Extenuating circumstances will be reviewed by the MDOC Contract Manager before any Service Credits are assessed.

STATE OF MICHIGAN

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**SCHEDULE
Reserved**

STATE OF MICHIGAN

Request For Proposal No. 200000001688
Work Skills Readiness Assessment for MDE and MDOC

SCHEDULE E Contractor Hosted Software and Services

1. Definitions. In addition to the definitions found in the Contract Terms, for the purposes of this Contract, the following terms have the following meanings:

- a. **"Authorized Users"** means all Persons authorized by the State to access and use the Software under this Contract, subject to the maximum number of users specified in the applicable Statement of Work.
- b. **"Harmful Code"** means any: (a) virus, trojan horse, worm, backdoor or other software or hardware devices the effect of which is to permit unauthorized access to, or to disable, erase, or otherwise harm, any computer, systems or software; or (b) time bomb, drop dead device, or other software or hardware device designed to disable a computer program automatically with the passage of time or under the positive control of any Person, or otherwise prevent, restrict or impede the State's or any Authorized User's use of such software.
- c. **"Hosted Services"** means the hosting, management and operation of the Software and other services for remote electronic access and use by the State and its Authorized Users as described in one or more written, sequentially numbered, statements of work referencing this Contract, including all Specifications set forth in such statements of work, which, upon their execution will be attached as **Schedule A** to this Contract and by this reference are incorporated in and made a part of this Contract.
- d. **"Integration Testing"** has the meaning set forth in **Section Error! Reference source not found..**
- e. **"Open-Source Components"** means any software component that is subject to any open-source copyright license agreement, including any GNU General Public License or GNU Library or Lesser Public License, or other obligation, restriction or license agreement that substantially conforms to the Open Source Definition as prescribed by the Open Source Initiative or otherwise may require disclosure or licensing to any third party of any source code with which such software component is used or compiled.
- f. **"Open-Source License"** has the meaning set forth in **Section Error! Reference source not found..**
- g. **"Operating Environment"** means, collectively, the platform, environment and conditions on, in or under which the Software is intended to be installed and operate, as set forth in the Statement of Work, including such structural, functional and other features, conditions and components as hardware, operating software and system architecture and configuration.
- h. **"Service Error"** means any failure of any Hosted Service to be Available or otherwise perform in accordance with this Schedule.
- i. **"Specifications"** means the specifications for the Software set forth in the applicable Statement of Work and, to the extent consistent with and not limiting of the foregoing, the Documentation.

- j. **"State Materials"** means all materials and information, including documents, data, know-how, ideas, methodologies, specifications, software, content and technology, in any form or media, directly or indirectly provided or made available to Contractor by or on behalf of the State in connection with this Contract.
- k. **"Support Services"** means the Software maintenance and support services Contractor is required to or otherwise does provide to the State pursuant to this **Schedule E** and **Exhibit 1** to this **Schedule E**.
- l. **"Technical Specification"** means, with respect to any Software, the document setting forth the technical specifications for such Software and included in the Statement of Work.
- m. **"User Data"** means all data, information and other content of any type and in any format, medium or form, whether audio, visual, digital, screen, GUI or other, that is input, uploaded to, placed into or collected, stored, processed, generated or output by any device, system or network by or on behalf of the State, including any and all works, inventions, data, analyses and other information and materials resulting from any use of the Software by or on behalf of the State under this Contract, except that User Data does not include the Software or data, information or content, including any GUI, audio, visual or digital or other display or output, that is generated automatically upon executing the Software without additional user input.
- n. **"Warranty Period"** means the ninety (90) calendar-day period commencing on the date of the State's Acceptance of the Software.

2. Hosted Software License Grant and Source Code Escrow.

- o. Contractor License Grant. Contractor hereby grants to the State, exercisable by and through its Authorized Users, a nonexclusive, royalty-free, irrevocable (except as provided herein) right and license during the Term and such additional periods, if any, as Contractor is required to perform Services under this Contract or any Statement of Work, to:
 - i. access and use the Hosted Services, including in operation with other software, hardware, systems, networks and services, for the State's business purposes, including for Processing State Data;
 - ii. generate, print, copy, upload, download, store and otherwise Process all GUI, audio, visual, digital and other output, displays and other content as may result from any access to or use of the Hosted Services;
 - iii. prepare, reproduce, print, download and use a reasonable number of copies of the Specifications and Documentation for any use of the Hosted Services under this Contract; and
 - iv. access and use the Hosted Services for all such non-production uses and applications as may be necessary or useful for the effective use of the Hosted Services hereunder, including for purposes of analysis, development, configuration, integration, testing, training, maintenance, support and repair, which access and use will be without charge

and not included for any purpose in any calculation of the State's or its Authorized Users' use of the Hosted Services, including for purposes of assessing any Fees or other consideration payable to Contractor or determining any excess use of the Hosted Services as described in **Section** Error! Reference source not found..

- p. License Restrictions. The State will not: (a) rent, lease, lend, sell, sublicense, assign, distribute, publish, transfer or otherwise make the Hosted Services available to any third party, except as expressly permitted by this Contract or in any Statement of Work; or (b) use or authorize the use of the Hosted Services or Documentation in any manner or for any purpose that is unlawful under applicable Law.
- q. Use. The State will pay Contractor the corresponding Fees set forth in the Statement of Work for all Authorized Users access and use of the Hosted Services or Software. Such Fees will be Contractor's sole and exclusive remedy for use of the Hosted Services or Software, including any excess use.
- r. Open-Source Licenses. For Contractor Hosted Software only (and not for the provision of Software-as-a-Service), any use hereunder of Open-Source Components shall be governed by, and subject to, the terms and conditions of the applicable open-source license ("Open-Source License"). Contractor shall identify and describe in an exhibit to the Statement of Work each of the Approved Open-Source Components of the Software, and include an exhibit attaching all applicable Open-Source Software Licenses or identifying the URL where these licenses are publicly available.
- s. Source Code Escrow. The parties may enter into a separate intellectual property escrow agreement. Such escrow agreement will govern all aspects of Source Code escrow and release. Contractor hereby grants the State a license to use, reproduce, and create derivative works from the deposit material, provided the State may not distribute or sublicense the deposit material or make any use of it whatsoever except for such internal use as is necessary to maintain and support the Software. Copies of the deposit material created or transferred pursuant to this Contract are licensed, not sold, and the State receives no title to or ownership of any copy or of the deposit material itself. The deposit material constitutes Confidential Information of Contractor pursuant to **Section 38.a** of this Contract (provided no provision of **Section 38.e** calling for return of Confidential Information before termination of this Contract will apply to the deposit material).

2. Hosted Services Testing and Acceptance.

2.1 Hosted Service Preparation. Promptly upon the parties' execution of a Statement of Work, Contractor will take all steps necessary to make the Hosted Services procured thereunder ready and available for the State's use in accordance with the Statement of Work and this Contract, including any applicable milestone date or dates set forth in such Statement of Work.

- a. Testing and Acceptance.

- i. When Contractor notifies the State in writing that the Hosted Services are ready for use in a production environment, the State will have thirty (30) days (or such other period as may be agreed upon by the Parties in writing) from receipt of the notice to test the Hosted Services to determine whether they comply in all material respects with the requirements of this Contract and the Specifications.
- ii. Upon completion of the State's testing, the State will notify Contractor of its acceptance ("**Accept**" or "**Acceptance**") or, if it has identified any noncompliance with the Specifications, rejection ("**Reject**" or "**Rejection**") of the Hosted Services. If the State Rejects the Hosted Services, the State will provide a written list of items that must be corrected. On receipt of the State's notice, Contractor will promptly commence, at no additional cost or charge to the State, all reasonable efforts to complete, as quickly as possible and in any event within twenty (20) days (or such other period as may be agreed upon by the Parties in writing) from receipt of the State's notice, such necessary corrections, repairs and modifications to the Hosted Services to bring them into full compliance with the Specifications.
- iii. If any corrective measures are required under **Section 2.a.ii**, upon completion of all such measures, Contractor will notify the State in writing and the process set forth in **Section 2.a.i** and **Section 2.a.ii** will be repeated; provided that if the State determines that the Hosted Services, as revised, still do not comply in all material respects with the Specifications, the State may, in its sole discretion:
 1. require the Contractor to repeat the correction, repair and modification process set forth in **Section 2.a.ii** at no additional cost or charge to the State; or
 2. terminate any and all of the relevant Statement of Work, this Contract and any other Statements of Work hereunder.
- iv. The parties will repeat the foregoing procedure until the State Accepts the Hosted Services or elects to terminate the relevant Statement of Work as provided in **Section 2.a.iii.2** above. If the State so terminates the relevant Statement of Work, Contractor must refund to the State all sums previously paid to Contractor under such Statement of Work within ten (10) Business Days of the State's written notice of termination, and the State will be relieved of all obligations thereunder.

3. Support Services.

- a. **Maintenance and Support Services.** Contractor will provide Hosted Service maintenance and support services (collectively, "**Support Services**") in accordance with the provisions set forth in this **Schedule E** and in the Service Level Agreement, attached as **Exhibit 1** to this **Schedule E** (the "**Support Services and Service Level Agreement**").

- b. **Maintenance Services.** Contractor will provide Hosted Service maintenance and support services (collectively, "**Software Support Services**") in accordance with the provisions of this **Schedule E**, including **Exhibit 1** to this **Schedule E**. The Software Support Services are included in the Services, and Contractor may not assess any additional fees, costs or charges for such Software Support Services. Contractor will continuously maintain the Hosted Services to optimize Availability that meets or exceeds the Availability Requirement as defined in **Exhibit 1** to this **Schedule E**. Such maintenance services include providing to the State and its Authorized Users:
- i. all updates, bug fixes, enhancements, new releases, new versions and other improvements to the Hosted Services, including the Software, that Contractor provides at no additional charge to its other similarly situated customers; and
 - ii. all such services and repairs as are required to maintain the Hosted Services or are ancillary, necessary or otherwise related to the State's or its Authorized Users' access to or use of the Hosted Services, so that the Hosted Services operate properly in accordance with the Contract and this **Schedule E**.
- c. **Support Service Responsibilities.**

Contractor will:

- i. correct all Service Errors in accordance with the Support Service Level Requirements as defined in **Exhibit 1** to this **Schedule E**, including by providing defect repair, programming corrections and remedial programming;
- ii. provide unlimited telephone support between the hours of 7 am and 7 pm, EST;
- iii. provide unlimited online support 24 hours a day, seven days a week;
- iv. provide online access to technical support bulletins and other user support information and forums, to the full extent Contractor makes such resources available to its other customers; and
- v. respond to and Resolve Support Requests as specified in **Exhibit 1** to this **Schedule E**.

4. Software and Service Warranties.

- a. Contractor represents and warrants to the State that:
- i. Contractor has, and throughout the Term and any additional periods during which Contractor does or is required to perform the Services, including Hosted Services, will have, the unconditional and irrevocable right, power and authority, including all permits and licenses required, to provide the Services and grant and perform all rights and licenses granted or required to be granted by it under this Contract;

- ii. neither Contractor's grant of the rights or licenses hereunder nor its performance of any Services or other obligations under this Contract does or at any time will: (i) conflict with or violate any applicable law, including any law relating to data privacy, data security or personal information; (ii) require the consent, approval or authorization of any governmental or regulatory authority or other third party; or (iii) require the provision of any payment or other consideration by the State or any Authorized User to any third party, and Contractor shall promptly notify the State in writing if it becomes aware of any change in any applicable law that would preclude Contractor's performance of its material obligations hereunder;
- iii. as accessed and used by the State or any Authorized User in accordance with this Contract and the Specifications, the Hosted Services, Documentation and all other Services and materials provided by Contractor under this Contract will not infringe, misappropriate or otherwise violate any Intellectual Property Right or other right of any third party;
- iv. there is no settled, pending or, to Contractor's knowledge as of the Effective Date, threatened action, and it has not received any written, oral or other notice of any action (including in the form of any offer to obtain a license): (i) alleging that any access to or use of the Services, Hosted Services, or Software does or would infringe, misappropriate or otherwise violate any Intellectual Property Right of any third party; (ii) challenging Contractor's ownership of, or right to use or license, any software or other materials used or required to be used in connection with the performance or receipt of the Services, or alleging any adverse right, title or interest with respect thereto; or (iii) that, if decided unfavorably to Contractor, would reasonably be expected to have an actual or potential adverse effect on its ability to perform the Services, including Hosted Services, or its other obligations under this Contract, and it has no knowledge after reasonable investigation of any factual, legal or other reasonable basis for any such litigation, claim or proceeding;
- v. the Software, Services (including Hosted Services) will in all material respects conform to and perform in accordance with the Specifications and all requirements of this Contract, including the Availability and Availability Requirement provisions set forth in **Exhibit 1** to this **Schedule E**;
- vi. all Specifications are, and will be continually updated and maintained so that they continue to be, current, complete and accurate and so that they do and will continue to fully describe the Hosted Services in all material respects such that at no time during the Term or any additional periods during which Contractor does or is required to perform the Services will the Hosted Services have any material undocumented feature;
- vii. the Contractor Systems and Services (including Hosted Services) are and will remain free of Harmful Code;

- viii. Contractor will not advertise through the Hosted Services (whether with adware, banners, buttons or other forms of online advertising) or link to external web sites that are not approved in writing by the State;
 - ix. Contractor will perform all Services in a timely, professional and workmanlike manner with a level of care, skill, practice and judgment consistent with generally recognized industry standards and practices for similar services, using personnel with the requisite skill, experience and qualifications, and will devote adequate resources to meet Contractor's obligations (including the Availability Requirement and Support Service Level Requirements) under this Contract;
 - x. During the term of this Contract, any audit rights contained in any third-party software license agreement or end user license agreement for third-party software incorporated in or otherwise used in conjunction with the Services, will apply solely to Contractor's (or its subcontractors) facilities and systems that host the Services (including any disaster recovery site), and regardless of anything to the contrary contained in any third-party software license agreement or end user license agreement, third-party software providers will have no audit rights whatsoever against State systems or networks; and
 - xi. Contractor acknowledges that the State cannot indemnify any third parties, including but not limited to any third-party software providers that provide software that will be incorporated in or otherwise used in conjunction with the Services, and that notwithstanding anything to the contrary contained in any third-party software license agreement or end user license agreement, the State will not indemnify any third party software provider for any reason whatsoever.
- b. DISCLAIMER. EXCEPT FOR THE EXPRESS WARRANTIES IN THIS CONTRACT, CONTRACTOR HEREBY DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE UNDER OR IN CONNECTION WITH THIS CONTRACT OR ANY SUBJECT MATTER HEREOF.

STATE OF MICHIGAN

Request For Proposal No. 200000001688
Work Skills Readiness Assessment for MDE and MDOC

SCHEDULE E, Exhibit 1 Support Services and Services Level Agreement for Hosted Services

1. Definitions. For purposes of this **Exhibit 1** to **Schedule E**, the following terms have the meanings set forth below. All initial capitalized terms in this Schedule that are not defined in this **Section 1** shall have the respective meanings given to them in the Contract or its associated respective Schedules.

"Actual Uptime" means the total minutes in the Service Period that the Hosted Services are Available.

"Availability" has the meaning set forth in **Section 3(a)**.

"Availability Requirement" has the meaning set forth in **Section 3(a)**.

"Available" has the meaning set forth in **Section 3(a)**.

"Contractor Service Manager" has the meaning set forth in **Section 2.1**.

"Corrective Action Plan" has the meaning set forth in **Section 4.3**.

"Critical Service Error" has the meaning set forth in **Section 4**.

"Exceptions" has the meaning set forth in **Section 3.2**.

"Force Majeure Event" has the meaning set forth in **Section 5.1**.

"High Service Error" has the meaning set forth in **Section 4**.

"Hosted Services" has the meaning set forth in **Schedule E**.

"Low Service Error" has the meaning set forth in **Section 4**.

"Medium Service Error" has the meaning set forth in **Section 4**.

"Resolve" has the meaning set forth in **Section 4.1(a)**.

"Scheduled Downtime" has the meaning set forth in **Section 3.3**.

"Scheduled Uptime" means the total minutes in the Service Period.

"Service Availability Credits" has the meaning set forth in **Section 3.6(a)**.

"Service Level Credits" has the meaning set forth in **Section 4.2**.

"Service Level Failure" means a failure to perform the Software Support Services fully in compliance with the Support Service Level Requirements.

"Service Period" has the meaning set forth in **Section 3(a)**.

"Software" has the meaning set forth in the Contract.

"Software Support Services" has the meaning set forth in **Section 3.a**.

"State Service Manager" has the meaning set forth in **Section 2.2**.

"State Systems" means the information technology infrastructure, including the computers, software, databases, electronic systems (including database management systems) and networks, of the State or any of its designees.

"Support Request" has the meaning set forth in **Section 4**.

"Support Service Level Requirements" has the meaning set forth in **Section 4**.

"Term" has the meaning set forth in the Contract.

2. Personnel

2.1 Contractor Personnel for the Hosted Services. Contractor will appoint a Contractor employee to serve as a primary contact with respect to the Services who will have the authority to act on behalf of Contractor in matters pertaining to the receipt and processing of Support Requests and the Software Support Services (the **"Contractor Service Manager"**). The **Contractor Service Manager** will be considered Key Personnel under the Contract.

2.2 State Service Manager for the Hosted Services. The State will appoint and, in its reasonable discretion, replace, a State employee to serve as the primary contact with respect to the Services who will have the authority to act on behalf of the State in matters pertaining to the Software Support Services, including the submission and processing of Support Requests (the **"State Service Manager"**).

3. Service Availability and Service Availability Credits.

(a) Availability Requirement. Contractor will make the Hosted Services Available, as measured over the course of each calendar month during the Term and any additional periods during which Contractor does or is required to perform any Hosted Services (each such calendar month, a **"Service Period"**), at least 99.98% of the time, excluding only the time the Hosted Services are not Available solely as a result of one or more Exceptions (the **"Availability Requirement"**). **"Available"** means the Hosted Services are available and operable for access and use by the State and its Authorized Users over the Internet in material conformity with the Contract. **"Availability"** has a correlative meaning. The Hosted Services are not considered Available in the event of a material performance degradation or inoperability of the Hosted Services, in whole or in part. The Availability Requirement will be calculated for the Service Period as follows: (Actual Uptime – Total Minutes in Service Period Hosted Services are

not Available Due to an Exception) ÷ (Scheduled Uptime – Total Minutes in Service Period Hosted Services are not Available Due to an Exception) x 100 = Availability.

3.2 Exceptions. No period of Hosted Service degradation or inoperability will be included in calculating Availability to the extent that such downtime or degradation is due to any of the following ("**Exceptions**"):

- (a) failures of the State's or its Authorized Users' internet connectivity;
- (b) Scheduled Downtime as set forth in **Section 3.3**.

3.3 Scheduled Downtime. Contractor must notify the State at least twenty-four (24) hours in advance of all scheduled outages of the Hosted Services in whole or in part ("**Scheduled Downtime**"). All such scheduled outages will: (a) last no longer than five (5) hours; (b) be scheduled between the hours of 12:00 a.m. and 5:00 a.m., Eastern Time; and (c) occur no more frequently than once per week; provided that Contractor may request the State to approve extensions of Scheduled Downtime above five (5) hours, and such approval by the State may not be unreasonably withheld or delayed.

3.4 Software Response Time. Software response time, defined as the interval from the time the end user sends a transaction to the time a visual confirmation of transaction completion is received, must be less than two (2) seconds for 98% of all transactions. Unacceptable response times shall be considered to make the Software unavailable and will count against the Availability Requirement.

3.5 Service Availability Reports. Within thirty (30) days after the end of each Service Period, Contractor will provide to the State a report describing the Availability and other performance of the Hosted Services during that calendar month as compared to the Availability Requirement. The report must be in electronic or such other form as the State may approve in writing and shall include, at a minimum: (a) the actual performance of the Hosted Services relative to the Availability Requirement; and (b) if Hosted Service performance has failed in any respect to meet or exceed the Availability Requirement during the reporting period, a description in sufficient detail to inform the State of the cause of such failure and the corrective actions the Contractor has taken and will take to ensure that the Availability Requirement are fully met.

3.6 Remedies for Service Availability Failures.

(a) If the actual Availability of the Hosted Services is less than the Availability Requirement for any Service Period, such failure will constitute a Service Error for which Contractor will issue to the State the following credits on the fees payable for Hosted Services provided during the Service Period ("**Service Availability Credits**"):

Availability	Credit of Fees
≥99.98%	None
<99.98% but ≥99.0%	15%
<99.0% but ≥95.0%	50%

<95.0%	100%
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(b) Any Service Availability Credits due under this **Section 3.6** will be applied in accordance with payment terms of the Contract.

(c) If the actual Availability of the Hosted Services is less than the Availability Requirement in any two (2) of four (4) consecutive Service Periods, then, in addition to all other remedies available to the State, the State may terminate the Contract on written notice to Contractor with no liability, obligation or penalty to the State by reason of such termination.

3.7 Service Monitoring and Management. Contractor will continuously monitor and manage the Hosted Services to optimize Availability that meets or exceeds the Availability Requirement. Such monitoring and management includes:

(a) proactively monitoring on a twenty-four (24) hour by seven (7) day basis all Hosted Service functions, servers, firewall and other components of Hosted Service security;

(b) if such monitoring identifies, or Contractor otherwise becomes aware of, any circumstance that is reasonably likely to threaten the Availability of the Hosted Service, taking all necessary and reasonable remedial measures to promptly eliminate such threat and ensure full Availability; and

(c) if Contractor receives knowledge that the Hosted Service or any Hosted Service function or component is not Available (including by written notice from the State pursuant to the procedures set forth herein):

- (i) confirming (or disconfirming) the outage by a direct check of the associated facility or facilities;
- (ii) if Contractor's facility check in accordance with clause (i) above confirms a Hosted Service outage in whole or in part: (A) notifying the State in writing pursuant to the procedures set forth herein that an outage has occurred, providing such details as may be available, including a Contractor trouble ticket number, if appropriate, and time of outage; and (B) working all problems causing and caused by the outage until they are Resolved as Critical Service Errors in accordance with the Support Request Classification set forth in **Section 4**, or, if determined to be an internet provider problem, open a trouble ticket with the internet provider; and
- (iii) notifying the State that Contractor has fully corrected the outage and any related problems, along with any pertinent findings or action taken to close the trouble ticket.

4. Support Service Level Requirements. Contractor will correct all Service Errors and respond to and Resolve all Support Requests in accordance with the required times and other terms and conditions set forth in this **Section 4** ("**Support Service Level Requirements**"), and the Contract.

4.1 Support Requests. The State will classify its requests for Service Error corrections in accordance with the descriptions set forth in the chart below (each a "**Support Request**"). The State Service Manager will notify

Contractor of Support Requests by email, telephone or such other means as the parties may hereafter agree to in writing.

Support Request Classification	Description: Any Service Error Comprising or Causing any of the Following Events or Effects
Critical Service Error	<ul style="list-style-type: none"> • Issue affecting entire system or single critical production function; • System down or operating in materially degraded state; • Data integrity at risk; • Declared a Critical Support Request by the State; or • Widespread access interruptions.
High Service Error	<ul style="list-style-type: none"> • Primary component failure that materially impairs its performance; or • Data entry or access is materially impaired on a limited basis.
Medium Service Error	<ul style="list-style-type: none"> • Hosted Service is operating with minor issues that can be addressed with an acceptable (as determined by the State) temporary work around.
Low Service Error	<ul style="list-style-type: none"> • Request for assistance, information, or services that are routine in nature.

(a) Response and Resolution Time Service Levels. Response and Resolution times will be measured from the time Contractor receives a Support Request until the respective times Contractor has (i) responded to, in the case of response time and (ii) Resolved such Support Request, in the case of Resolution time. **“Resolve”** (including **“Resolved”**, **“Resolution”** and correlative capitalized terms) means that, as to any Service Error, Contractor has provided the State the corresponding Service Error correction and the State has confirmed such correction and its acceptance thereof. Contractor will respond to and Resolve all Service Errors within the following times based on the severity of the Service Error:

Support Request Classification	Service Level Metric	Service Level Metric	Service Level Credits	Service Level Credits

	(Required Response Time)	(Required Resolution Time)	(For Failure to Respond to any Support Request Within the Corresponding Response Time)	(For Failure to Resolve any Support Request Within the Corresponding Required Resolution Time)
Critical Service Error	One (1) hour	Three (3) hours	Five percent (5%) of the Fees for the month in which the initial Service Level Failure begins and five percent (5%) of such monthly Fees for each additional hour or portion thereof that the corresponding Service Error is not responded to within the required response time.	Five percent (5%) of the Fees for the month in which the initial Service Level Failure begins and five percent (5%) of such monthly Fees for the first additional hour or portion thereof that the corresponding Service Error remains un-Resolved, which amount will thereafter double for each additional one-hour increment.
High Service Error	One (1) hour	Four (4) hours	Three percent (3%) of the Fees for the month in which the initial Service Level Failure begins and three percent (3%) of such monthly Fees for each additional hour or portion thereof that the corresponding Service Error is not responded to within the required response time.	Three percent (3%) of the Fees for the month in which the initial Service Level Failure begins and three percent (3%) of such monthly Fees for the first additional hour or portion thereof that the corresponding Service Error remains un-Resolved, which amount will thereafter double for each additional one-hour increment.
Medium Service Error	Three (3) hours	Two (2) Business Days	N/A	N/A
Low Service Error	Three (3) hours	Five (5) Business Days	N/A	N/A

(b) Escalation. With respect to any Critical Service Error Support Request, until such Support Request is Resolved, Contractor will escalate that Support Request within sixty (60) minutes of the receipt of such Support Request by the appropriate Contractor support personnel, including, as applicable, the Contractor Service Manager and Contractor's management or engineering personnel, as appropriate.

4.2 Support Service Level Credits. Failure to achieve any of the Support Service Level Requirements for Critical and High Service Errors will constitute a Service Level Failure for which Contractor will issue to the State the

corresponding service credits set forth in **Section 4.1(a) ("Service Level Credits")** in accordance with payment terms set forth in the Contract.

4.3 Corrective Action Plan. If two or more Critical Service Errors occur in any thirty (30) day period during (a) the Term or (b) any additional periods during which Contractor does or is required to perform any Hosted Services, Contractor will promptly investigate the root causes of these Service Errors and provide to the State within five (5) Business Days of its receipt of notice of the second such Support Request an analysis of such root causes and a proposed written corrective action plan for the State's review, comment and approval, which, subject to and upon the State's written approval, shall be a part of, and by this reference is incorporated in, the Contract as the parties' corrective action plan (the "**Corrective Action Plan**"). The Corrective Action Plan must include, at a minimum: (a) Contractor's commitment to the State to devote the appropriate time, skilled personnel, systems support and equipment and other resources necessary to Resolve and prevent any further occurrences of the Service Errors giving rise to such Support Requests; (b) a strategy for developing any programming, software updates, fixes, patches, etc. necessary to remedy, and prevent any further occurrences of, such Service Errors; and (c) time frames for implementing the Corrective Action Plan. There will be no additional charge for Contractor's preparation or implementation of the Corrective Action Plan in the time frames and manner set forth therein.

5. Force Majeure.

5.1 Force Majeure Events. Subject to **Section 5.3**, neither party will be liable or responsible to the other party, or be deemed to have defaulted under or breached the Contract, for any failure or delay in fulfilling or performing any term hereof, when and to the extent such failure or delay is caused by: acts of God, flood, fire or explosion, war, terrorism, invasion, riot or other civil unrest, embargoes or blockades in effect on or after the date of the Contract, national or regional emergency, or any passage of law or governmental order, rule, regulation or direction, or any action taken by a governmental or public authority, including imposing an embargo, export or import restriction, quota or other restriction or prohibition (each of the foregoing, a "**Force Majeure Event**"), in each case provided that: (a) such event is outside the reasonable control of the affected party; (b) the affected party gives prompt written notice to the other party, stating the period of time the occurrence is expected to continue; (c) the affected party uses diligent efforts to end the failure or delay and minimize the effects of such Force Majeure Event.

5.2 State Performance; Termination. In the event of a Force Majeure Event affecting Contractor's performance under the Contract, the State may suspend its performance hereunder until such time as Contractor resumes performance. The State may terminate the Contract by written notice to Contractor if a Force Majeure Event affecting Contractor's performance hereunder continues substantially uninterrupted for a period of five (5) Business Days or more. Unless the State terminates the Contract pursuant to the preceding sentence, any date specifically designated for Contractor's performance under the Contract will automatically be extended for a period up to the duration of the Force Majeure Event.

5.3 Exclusions; Non-suspended Obligations. Notwithstanding the foregoing or any other provisions of the Contract or this Schedule:

- (a) in no event will any of the following be considered a Force Majeure Event:

- (i) shutdowns, disruptions or malfunctions of Contractor Systems or any of Contractor's telecommunication or internet services other than as a result of general and widespread internet or telecommunications failures that are not limited to the Contractor Systems; or
- (ii) the delay or failure of any Contractor Personnel to perform any obligation of Contractor hereunder unless such delay or failure to perform is itself by reason of a Force Majeure Event.

STATE OF MICHIGAN

Request For Proposal No. 200000001688
Work Skills Readiness Assessment for MDE and MDOC

SCHEDULE F Data Security Requirements

1. Definitions. For purposes of this Schedule, the following terms have the meanings set forth below. All initial capitalized terms in this Schedule that are not defined in this **Section 1** shall have the respective meanings given to them in the Contract.

“Contractor Security Officer” has the meaning set forth in **Section 2** of this Schedule.

“Contractor Systems” has the meaning set forth in **Section 5** of this Schedule.

“FedRAMP” means the Federal Risk and Authorization Management Program, which is a federally approved risk management program that provides a standardized approach for assessing and monitoring the security of cloud products and services.

“FISMA” means the Federal Information Security Modernization Act of 2014 (44 U.S.C. § 3551 et seq.).

“Hosted Services” means the hosting, management and operation of the computing hardware, ancillary equipment, Software, firmware, data, other services (including support services), and related resources for remote electronic access and use by the State and its Authorized Users, including any services and facilities related to disaster recovery obligations.

“NIST” means the National Institute of Standards and Technology.

“PSP” means the State’s IT Policies, Standards and Procedures

“PCI” means the Payment Card Industry.

“SSAE” means Statement on Standards for Attestation Engagements.

2. Contractor will appoint a Contractor employee to respond to the State’s inquiries regarding the security of the Contractor Systems who has sufficient knowledge of the security of the Contractor Systems and the authority to act on behalf of Contractor in matters pertaining thereto (**“Contractor Security Officer”**). The Contractor Security Officer will be considered Key Personnel under the Contract.

3. Protection of the State’s Confidential Information. Throughout the Term and at all times in connection with its actual or required performance of the Services, Contractor will:

3.1. the Software must be hosted in a government cloud solution, and Contractor must maintain an annual SSAE 16 SOC 2 Type 2 audit for the Hosted Services throughout the Term maintain FedRAMP certification for the Hosted Services throughout the Term, and in the event the contractor is unable to maintain FedRAMP certification, the State may move the Software to an alternative provider, at contractor’s sole cost and expense;

3.2. ensure that the Software and State Data is securely hosted, supported, administered, and accessed in a data center and backup data center that resides in the continental United States, and minimally meets Uptime Institute Tier 3 standards (www.uptimeinstitute.com), or its equivalent;

3.3. maintain and enforce an information security program including safety and physical and technical security policies and procedures with respect to its Processing of the State's Confidential Information that comply with the requirements of the State's data security policies as set forth in the Contract, and must, at a minimum, remain compliant with FISMA and the NIST Special Publication 800.53 (most recent version) MOD Controls using minimum control values as established in the applicable PSP, and must, at a minimum, remain compliant with FISMA and the NIST Special Publication 800.53 (most recent version) HIGH Controls using minimum control values as established in the applicable PSP;

3.4. provide technical and organizational safeguards against accidental, unlawful or unauthorized access to or use, destruction, loss, alteration, disclosure, transfer, commingling or processing of such information that ensure a level of security appropriate to the risks presented by the processing of the State's Confidential Information and the nature of such Confidential Information, consistent with best industry practice and standards;

3.5. take all reasonable measures to:

- (a) secure and defend all locations, equipment, systems and other materials and facilities employed in connection with the Services against "hackers" and others who may seek, without authorization, to disrupt, damage, modify, access or otherwise use Contractor Systems or the information found therein; and
- (b) prevent (i) the State and its Authorized Users from having access to the data of other customers or such other customer's users of the Services; (ii) the State's Confidential Information from being commingled with or contaminated by the data of other customers or their users of the Services; and (iii) unauthorized access to any of the State's Confidential Information;

3.6. ensure that State Data is encrypted in transit and at rest using AES 256bit or higher encryption;

3.7. ensure that State Data is encrypted in transit and at rest using currently certified encryption modules in accordance with FIPS PUB 140-2 (as amended). *Security Requirements for Cryptographic Modules*;

3.8. ensure the Hosted Services support Identity Federation/Single Sign-on (SSO) capabilities using Security Assertion Markup Language (SAML) or comparable mechanisms;

3.9. ensure the Hosted Services have multi-factor authentication for privileged/administrative access; and

3.10. assist the State, at no additional cost, with development and completion of a system security plan using the State's automated governance, risk and compliance (GRC) platform.

4. Unauthorized Access. Contractor may not access, and shall not permit any access to, State systems, in whole or in part, whether through Contractor's Systems or otherwise, without the State's express prior written authorization. Such authorization may be revoked by the State in writing at any time in its sole discretion. Any access to State systems must be solely in accordance with the Contract and

this Schedule, and in no case exceed the scope of the State's authorization pursuant to this **Section 4**. All State-authorized connectivity or attempted connectivity to State systems shall be only through the State's security gateways and firewalls and in compliance with the State's security policies set forth in the Contract as the same may be supplemented or amended by the State and provided to Contractor from time to time.

5. Contractor Systems. Contractor will be solely responsible for the information technology infrastructure, including all computers, software, databases, electronic systems (including database management systems) and networks used by or for Contractor in connection with the Services ("**Contractor Systems**") and shall prevent unauthorized access to State systems through the Contractor Systems.

6. Security Audits. During the Term, Contractor will:

6.1. maintain complete and accurate records relating to its data protection practices, IT security controls, and the security logs of any of the State's Confidential Information, including any backup, disaster recovery or other policies, practices or procedures relating to the State's Confidential Information and any other information relevant to its compliance with this Schedule;

6.2. upon the State's request, make all such records, appropriate personnel and relevant materials available during normal business hours for inspection and audit by the State or an independent data security expert that is reasonably acceptable to Contractor, provided that the State: (i) gives Contractor at least five (5) Business Days prior notice of any such audit; (ii) undertakes such audit no more than once per calendar year, except for good cause shown; and (iii) conducts or causes to be conducted such audit in a manner designed to minimize disruption of Contractor's normal business operations and that complies with the terms and conditions of all data confidentiality, ownership, privacy, security and restricted use provisions of the Contract. The State may, but is not obligated to, perform such security audits, which shall, at the State's option and request, include penetration and security tests, of any and all Contractor Systems and their housing facilities and operating environments; and

6.3. if requested by the State, provide a copy of Contractor's SSAE 16 SOC 2 Type 2 audit report to the State within thirty (30) days after Contractor's receipt of such report. Any such audit reports will be recognized as Contractor's Confidential Information.

6.4. if requested by the State, provide a copy of Contractor's FedRAMP System Security Plan. The System Security Plan will be recognized as Contractor's Confidential Information.

7. Nonexclusive Remedy for Security Breach. Any failure of the Services to meet the requirements of this Schedule with respect to the security of any State Data or other Confidential Information of the State, including any related backup, disaster recovery or other policies, practices or procedures, is a material breach of the Contract for which the State, at its option, may terminate the Contract immediately upon written notice to Contractor without any notice or cure period, and Contractor must promptly reimburse to the State any Fees prepaid by the State prorated to the date of such termination.

8. PCI Compliance.

8.1. Contractors that process, transmit, store or affect the security of credit/debit cardholder data, must adhere to the PCI Data Security Standard. The Contractor is responsible for the security of cardholder data in its possession. The data may only be used to assist the State or for other uses specifically authorized by law.

8.2. The Contractor must notify the State's Contract Administrator (within 48 hours of discovery) of any breaches in security where cardholder data has been compromised. In that event, the Contractor must provide full cooperation to the card associations (e.g. Visa, MasterCard, and Discover) and state acquirer representative(s), or a PCI approved third party, to conduct a thorough security review. The Contractor must provide, at the request of the State, the results of such third party security review. The review must validate compliance with the PCI Data Security Standard for protecting cardholder data. At the State's sole discretion, the State may perform its own security review, either by itself or through a PCI approved third party.

8.3. The Contractor is responsible for all costs incurred as the result of the breach. Costs may include, but are not limited to, fines/fees for non-compliance, card reissuance, credit monitoring, and any costs associated with a card association, PCI approved third party, or State initiated security review.

8.4. Without limiting Contractor's obligations of indemnification as further described in this Contract, Contractor must indemnify, defend, and hold harmless the State for any and all claims, including reasonable attorneys' fees, costs, and incidental expenses, which may be suffered by, accrued against, charged to, or recoverable from the State in connection with the breach.

8.5. The Contractor must dispose of cardholder data when it is no longer needed in compliance with PCI DSS policy. The Contractor must continue to treat cardholder data as confidential upon contract termination.

8.6. The Contractor must provide the State's Contract Administrator with an annual Attestation of Compliance (AOC) or a Report on Compliance (ROC) showing the contractor is in compliance with the PCI Data Security Standard. The Contractor must notify the State's Contract Administrator of all failures to comply with the PCI Data Security Standard.

STATE OF MICHIGAN

Request For Proposal No. 200000001688
Work Skills Readiness Assessment for MDE and MDOC

SCHEDULE F, Exhibit 1 Contractor's Disaster Recovery Plan

STATE OF MICHIGAN

Request For Proposal No. 200000001688
Work Skills Readiness Assessment for MDE and MDOC

SCHEDULE I Federal Provisions Addendum

The provisions in this addendum may apply if the purchase will be paid for in whole or in part with funds obtained from the federal government. If any provision below is not required by federal law for this Contract, then it does not apply and must be disregarded. If any provision below is required to be included in this Contract by federal law, then the applicable provision applies and the language is not negotiable. If any provision below conflicts with the State's terms and conditions, including any attachments, schedules, or exhibits to the State's Contract, the provisions below take priority to the extent a provision is required by federal law; otherwise, the order of precedence set forth in the Contract applies. Hyperlinks are provided for convenience only; broken hyperlinks will not relieve Contractor from compliance with the law.

5. **Federally Assisted Construction Contracts.** If this contract is a “**federally assisted construction contract**” as defined in [41 CFR Part 60-1.3](#), and except as otherwise may be provided under [41 CFR Part 60](#), then during performance of this Contract, the Contractor agrees as follows:

(1) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:

Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

(2) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

(3) The Contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the Contractor's legal duty to furnish information.

(4) The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union

or workers' representatives of the Contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(5) The Contractor will comply with all provisions of [Executive Order 11246](#) of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(6) The Contractor will furnish all information and reports required by [Executive Order 11246](#) of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(7) In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this Contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in [Executive Order 11246](#) of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in [Executive Order 11246](#) of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(8) The Contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of [Executive Order 11246](#) of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:

Provided, however, that in the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

6. Davis-Bacon Act (Prevailing Wage)

- a. If applicable, the Contractor (and its Subcontractors) for **prime construction contracts** in excess of \$2,000 must comply with the Davis-Bacon Act ([40 USC 3141-3148](#)) as supplemented by Department of Labor regulations ([29 CFR Part 5](#), "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction").
- b. The Contractor (and its Subcontractors) shall pay all mechanics and laborers employed directly on the site of the work, unconditionally and at least once a week, and without subsequent deduction or rebate on any account, the full amounts accrued at time of payment, computed at wage rates not less than those stated in the advertised specifications, regardless of any contractual relationship which may be alleged to exist between the Contractor or subcontractor and the laborers and mechanics;
- c. The Contractor will post the scale of wages to be paid in a prominent and easily accessible place at the site of the work;

- d. There may be withheld from the Contractor so much of accrued payments as the contracting officer considers necessary to pay to laborers and mechanics employed by the Contractor or any Subcontractor on the work the difference between the rates of wages required by the Contract to be paid laborers and mechanics on the work and the rates of wages received by the laborers and mechanics and not refunded to the Contractor or Subcontractors or their agents.
7. **Copeland “Anti-Kickback” Act.** If applicable, the Contractor must comply with the [Copeland “Anti-Kickback” Act \(40 USC 3145\)](#), as supplemented by Department of Labor regulations ([29 CFR Part 3](#), “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”), which prohibits the Contractor and subrecipients from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled.
8. **Contract Work Hours and Safety Standards Act.** If the Contract is **in excess of \$100,000** and **involves the employment of mechanics or laborers**, the Contractor must comply with [40 USC 3702](#) and [3704](#), as supplemented by Department of Labor regulations ([29 CFR Part 5](#)), as applicable.
9. **Rights to Inventions Made Under a Contract or Agreement.** If the Contract is funded by a federal “funding agreement” as defined under 37 CFR §401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.
10. **Clean Air Act.** If this Contract is **in excess of \$150,000**, the Contractor must comply with all applicable standards, orders, and regulations issued under the Clean Air Act (42 USC 7401-7671q) and the Federal Water Pollution Control Act (33 USC 1251-1387). Violations must be reported to the federal awarding agency and the regional office of the Environmental Protection Agency.
11. **Debarment and Suspension.** A “contract award” (see [2 CFR 180.220](#)) must not be made to parties listed on the government-wide exclusions in the [System for Award Management](#) (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), “Debarment and Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.
12. **Byrd Anti-Lobbying Amendment.** If this Contract **exceeds \$100,000**, bidders and the Contractor must file the certification required under [31 USC 1352](#).
13. **Procurement of Recovered Materials.** Under [2 CFR 200.322](#), a non-Federal entity that is a state agency or agency of a political subdivision of a state **and its contractors** must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at [40 CFR part 247](#) that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

Byrd Anti-Lobbying Certification

The following certification and disclosure regarding payments to influence certain federal transactions are made under FAR 52.203-11 and 52.203-12 and [31 USC 1352](#), the "Byrd Anti-Lobbying Amendment." Hyperlinks are provided for convenience only; broken hyperlinks will not relieve Contractor from compliance with the law.

1. [FAR 52.203-12](#), "Limitation on Payments to Influence Certain Federal Transactions" is hereby incorporated by reference into this certification.
2. The bidder, by submitting its proposal, hereby certifies to the best of his or her knowledge and belief that:
 - a. No federal **appropriated** funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress on his or her behalf in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any federal contract, grant, loan, or cooperative agreement;
 - b. If any funds **other than federal appropriated funds** (including profit or fee received under a covered federal transaction) have been paid, or will be paid, to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress on his or her behalf **in connection with this solicitation**, the bidder must complete and submit, with its proposal, [OMB standard form LLL, Disclosure of Lobbying Activities](#), to the Solicitation Manager; and
 - c. He or she will include the language of this certification in all subcontract awards at any tier and require that all recipients of subcontract awards in excess of \$150,000 must certify and disclose accordingly.
3. This certification is a material representation of fact upon which reliance is placed at the time of Contract award. Submission of this certification and disclosure is a prerequisite for making or entering into this Contract under [31 USC 1352](#). Any person making an expenditure prohibited under this provision or who fails to file or amend the disclosure form to be filed or amended by this provision is subject to a civil penalty of not less than \$10,000, and not more than \$100,000, for each such failure.

Signed by:

[Type name and title]

[Type company name]

Date: _____